

he admonished them:

"Lead, follow, or get out of the way!"

Ken Cuccinelli, former Virginia Attorney General

This Newsletter is produced by
Colorado State Senator Kevin Lundberg (senatorlundberg@gmail.com)
and New Mexico State Representative Yvette Herrell (yherrell@yahoo.com)
Newsletter Editor - Stuart MacPhail (CitizenAmend@aol.com)

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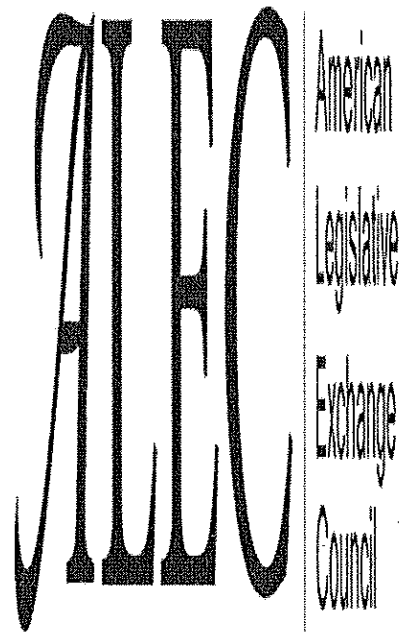
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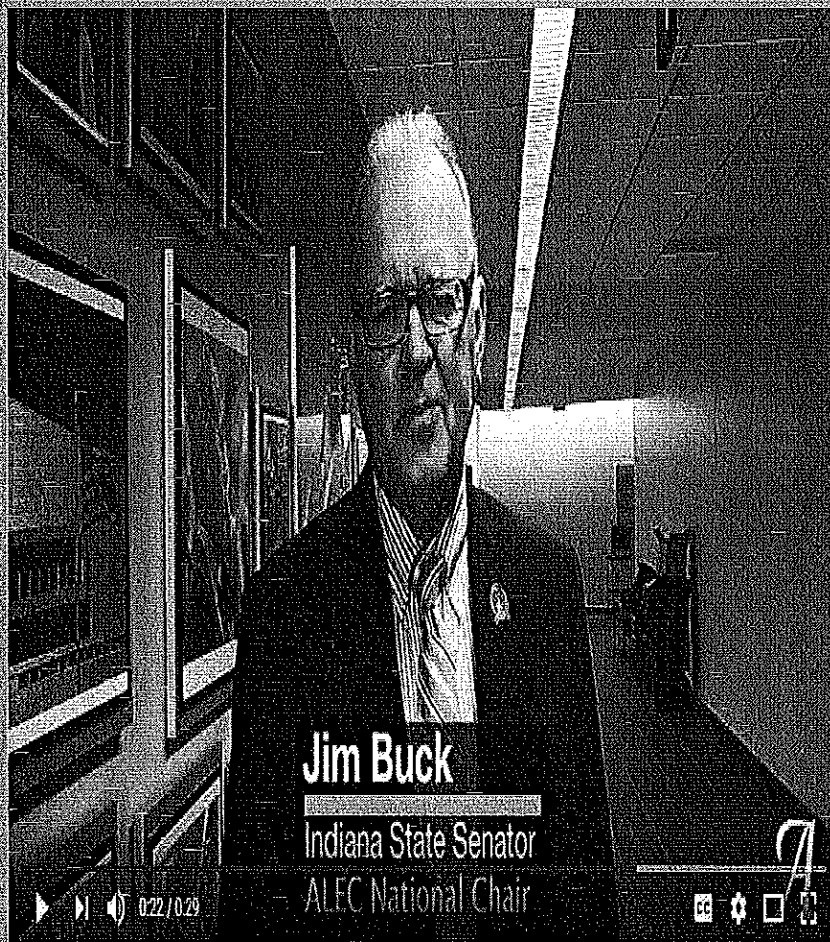
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**Special Video Message from
ALEC National Chair, Senator Jim Buck (IN)**



Have you made your hotel reservation?

Because so many of you took advantage of the discounted hotel rate, the ALEC room block is now **SOLD OUT**. Visit the meetings page for **alternative hotel options** in Nashville. We apologize for any inconvenience this may cause, but are excited to see so many of you in just a few short weeks.

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Agenda Updates

Be sure to check the ALEC agenda for updated Task Force Agendas and see what will be discussed this December.

Agenda

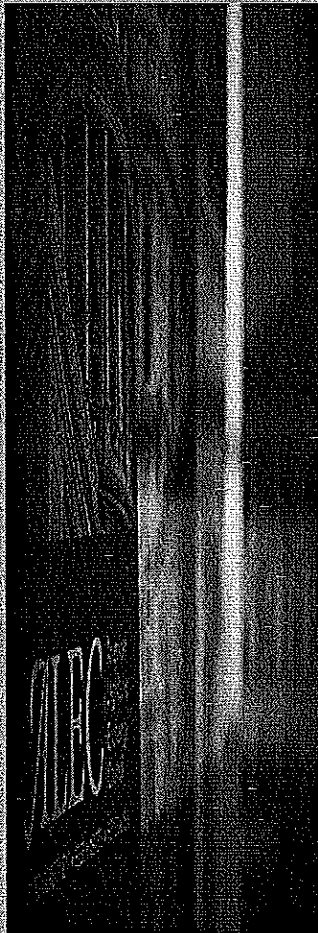
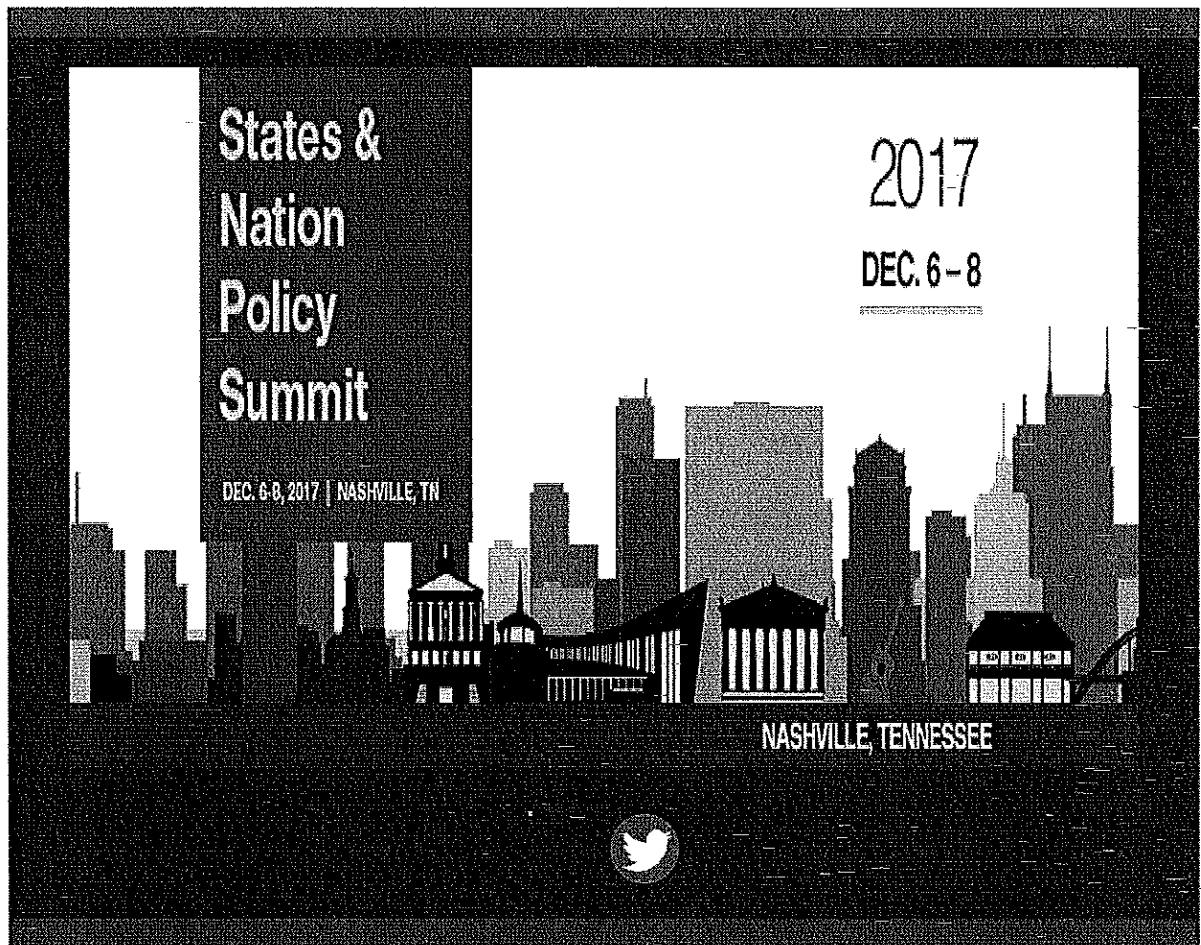


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the leaflet

Weekly policy updates from
THE HEARTLAND INSTITUTE 

Military Families Oppose War Against School Choice

Military families are overwhelmingly in favor of private school choice programs, a new report by EdChoice has found. The survey, titled "[Surveying the Military](#)," included 1,200 active-duty personnel, veterans, and their spouses and showed 72 percent are in favor of education savings accounts (ESAs), 64 percent are in favor of school vouchers, and 63 percent favor tax-credit scholarships. Additionally, the survey results show 51 percent of military respondents believe K-12 education is on the wrong track.

The EdChoice researchers report military parents are more active than other groups of parents and say they need flexibility when it comes to their children's education: "Military families are proactive in the way they support their children's education, and direct receipt of funds—perhaps via ESAs—could extend their involvement and further personalize the education of military-connected students whose lives require immense mobility and flexibility.

"Our survey findings indicate policy influencers and policymakers have a real opportunity to address military families' preferences for personalized student learning and greater access to options in K-12 education," the researchers added.

The information presented by EdChoice is similar to a recent survey produced by [the Military Times](#). According to that poll, 35 percent of respondents say their dissatisfaction with their children's education was a significant factor in deciding whether to continue with their military service. Forty percent said they have either declined or would decline a

better job opportunity to remain at their current military facility because of well-performing schools. The survey concluded, “The men and women who wear the uniform are at risk of voting with their feet if the education of their children suffers because of their choice to serve the nation.”

The success of school choice programs has been well documented, and many families have taken notice of it. In 2016, EdChoice released important empirical research on private school choice programs. According to the researchers, 31 empirical studies found expanded choice options improved public schools; 25 found choice programs saved taxpayers’ money; and eight found school choice strengthened civic values and practices.

Legislators in states with a large number of active-duty military personnel should be mindful of these surveys. Florida and North Carolina, both of which are in the top 10 of states with the highest active-duty populations, have enacted private school choice programs, but California, Hawaii, Kentucky, and Texas are devoid of any, despite having large military family populations.

In a new Research & Commentary on military families’ views on school choice, Heartland Policy Analyst Timothy Benson concluded, “There is no time like the present to help ease the burdens of these courageous men and women. ESAs, vouchers, tax-credit scholarships - none of these programs should be off the table for legislators in 2018. For our servicemen and veterans, it is the least we can do.”

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WHAT WE'RE WORKING ON

Energy & Environment

How the Premature Retirement of Coal-Fired Power Plants Affects Energy Reliability, Affordability

More than 250 coal-fired power plants in the United States have been retired since 2010. Many more are scheduled for retirement. By prematurely closing coal-powered generation, regulators are imposing billions and potentially trillions of dollars of unnecessary costs on ratepayers. In this Heartland Institute *Policy Study*, Research Fellow Isaac Orr and Senior Fellow Fred Palmer discuss Australia’s experience with policies that forced coal-fired power plants into premature retirement, making large parts of the country dependent on unreliable and high-priced renewable energy, particularly wind power. They also examine the parallels between the United States and Australia and discuss problems faced by states that have aggressively promoted renewable energy, examine the importance of “prudence” and diversified energy portfolios, and evaluate a U.S. Department of Energy study that correctly

identifies natural gas-fired power generators as a reason for coal plant retirements but fails to describe accurately the role played by renewable energy subsidies in those retirement decisions.

Education

Research & Commentary: The Need for Universal ESAs in New Hampshire

In this *Research & Commentary*, Policy Analyst Tim Benson writes about a recently resurrected bill making its way through the New Hampshire House of Representatives that would establish a universal education savings account (ESA) program in the Granite State. Funding for each ESA would equal 90 percent of New Hampshire's per-pupil adequate education grant amount, except for the kindergarten year, in which funding would be 50 percent. Leftover funds would carry over each year of the child's eligibility and would be available to help pay for tuition at postsecondary schools or used to fund the federal 530 college savings plan, also known as the Coverdell Education Savings Account program. Passage of the bill and establishment of the program would instantly bring New Hampshire to the forefront of the education choice movement.

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Health Care

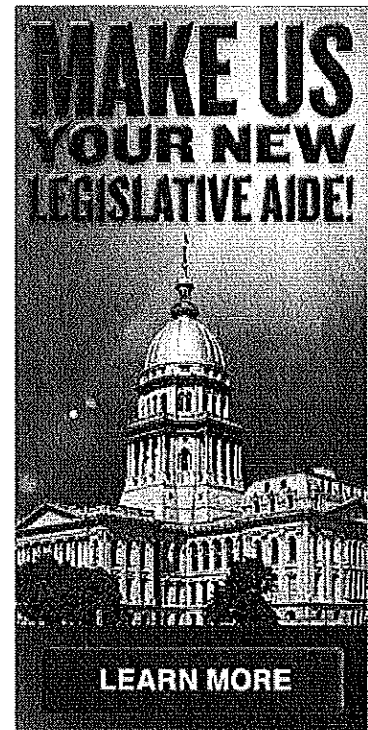
Bobbi Herzberg, Mercatus Center: The Attack of the Zombie Obamacare Death Panel

In this edition of *The Heartland Daily Podcast*, the Mercatus Center's Bobbi Herzberg joins the show to talk about the Independent Payment Advisory Board (IPAB), a forgotten part of the Affordable Care Act once referred to as "death panels." Instead of allowing the board to just shamle around without a head, Herzberg says Congress should put IPAB out of its misery and eliminate it entirely.

Budget & Tax

Research & Commentary: Vaping Taxes and Bans Hurt Smokers Trying to Quit

In this *Research & Commentary*, Senior Policy Analyst Matthew Glans and State Government Relations Manager Lindsey Stroud examine vaping bans and taxes and how they block what is for many smokers a viable method for quitting. "Placing excise taxes and bans on vaping products deter current smokers from quitting more-harmful combustible cigarettes, disproportionately harm low-income taxpayers, and punish local businesses. If state lawmakers prevent local governments from imposing regressive taxes and bans on vaping products, it could have a positive impact on public health, by helping more tobacco smokers quit," wrote Glans and Stroud.



POLICY NEWSPAPER



In the October 2017 issue, Chavey reports about the proposed regulation in Massachusetts to require out-

From Our Free-Market Friends

Let Them Fill Growlers

Jarrett Skorup of the Mackinac Center for Public Policy examines House Bill 5175, currently making its way through Michigan's state legislature. According to Skorup, the bill "lowers the threshold by one major step to make it easier for people to buy and sell beer" and "expands the ability for people to freely buy a legal product with no cost to the state or other residents." Michigan has some of the most burdensome regulations on the production, transportation, and sale of alcohol. These regulations artificially increase the price of alcohol and ensure the existence of a black market. The passage of HB 5175 would be a step in the direction of freedom.

of-state online businesses to collect and pay sales taxes to the state. NetChoice, a trade association for online businesses, has halted the implementation of this regulation by filing a lawsuit in the state's Superior Court.

**Environment &
Climate News**

Health Care News

School Reform News

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	The Heartland Institute is a 33-year-old national non-profit organization dedicated to discovering, developing, and promoting free-market solutions to economic and social problems.	<u>The Heartland Institute</u> <u>PolicyBot</u> <u>The Freedom Pub</u> <u>The Parent Trigger</u> <u>Climate Conference</u>

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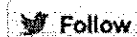
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Tuesday, November 14, 2017



TOP NEWS

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Analysis

3 Fast Facts About Trump's Pick For HHS Chief

President Donald Trump's choice for U.S. Department of Health and Human Services secretary is a whip-smart lawyer with industry-friendly impulses, measured hostility toward the Affordable Care Act, a deep background in Republican politics and a past role investigating President Bill Clinton. Here are

three fast facts about Alex Azar's background and reaction to his nomination. [Read more »](#)

= 9

Analysis

Federal Deficit Looms Large In Congress' Tax Cut Talks

As the House and Senate tax bills hurtle through congressional committees with amendments to bring them in line with budgetary rules, a number of policy proposals may end up being decided, not on their merits, but by how they will impact the country's approximately \$20 trillion debt. [Read more »](#)

= 9

Trump's Travel Ban Block Narrowed By 9th Circ.

The Ninth Circuit on Monday nixed much of a lower court's injunction on the Trump administration's third travel ban, reinstating limitations on nationals of six countries but carving out an exception for people with family living in the U.S. or with an offer from a university or employer. [Read more »](#)

Trump Taps Vet Of BigLaw, Big Pharma As Next HHS Chief = 9

President Donald Trump on Monday chose a veteran of BigLaw and Big Pharma to run the U.S. Department of Health and Human Services, a selection likely to invite questions about Trump's commitment to tackling drug prices. [Read more »](#)

= 9

Hospitals Sue HHS Over Big Cut To 340B Drug Payments

Hospital groups on Monday sued the U.S. Department of Health and Human Services in D.C. federal court for slashing \$1.6 billion from the 340B drug discount program, calling the cut an unlawful overreach that would "thoroughly undermine" the program. [Read more »](#)



[Listen to our new podcast here](#)

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LAW FIRMS

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= 9

Arnold & Porter Kaye Scholer

Blumberg & Wolk

Cleary Gottlieb

Covington & Burling

Cravath Swaine

Crowell & Moring

Cullen Law Firm

DLA Piper

= A

Debevoise & Plimpton

Dechert

Dentons

Dowd Bloch

Drinker Biddle

Earthjustice

Fisher Phillips

= A

Justices Will Hear Suit Over Calif. Abortion Disclosure Law

The U.S. Supreme Court on Monday agreed to consider whether a California law requiring clinics to tell women how to access information about low-cost contraception and abortions violates the First Amendment rights of providers who oppose abortion. [Read more »](#)

= 9

GOP Senator Wants Moore Expelled If He Wins Alabama Seat

Embattled Republican Alabama Senate Candidate Roy Moore continued to take heat from GOP Senate leaders Monday over allegations from multiple women of sexual misconduct when they were teenagers, with Colorado's Cory Gardner saying Moore should be expelled should he win next month's special election. [Read more »](#)

BANKING & SECURITIES

Sens. Strike Deal To Raise Threshold For Tougher Bank Rules

= 9 A bipartisan group of senators on Monday unveiled a narrow deal to ease bank rules, including raising the asset level at which banks are subjected to enhanced supervision and other measures aimed at easing compliance for community banks. [Read more »](#)

= 9

= 9 Swaps Overhaul Should Boost Market Vibrancy: CFTC Chair = 9

An overhaul of the swaps market proposed in the 2010 Dodd-Frank Act should be reviewed to ensure that the policies enhance rather than restrict market "vibrancy," U.S. Commodity Futures Trading Commission Chairman J. Christopher Giancarlo said Monday. [Read more »](#)

ENERGY & ENVIRONMENTAL

= 9

Fox Rothschild
Greenbaum Rowe

Hogan Lovells

Holland & Knight
Hunton & Williams
Jackson Lewis
Jenner & Block
Jones Day
Kirkland & Ellis

= 9

Kobre & Kim
Lawyers' Committee for Civil Rights

= 9

Locke Lord
Mayer Brown
McDermott Will
Morgan Lewis
Norris McLaughlin
Norton Rose Fulbright

= 9

O'Melveny & Myers
O'Neill & Borges
Paul Hastings

= 9

Proskauer Rose
Schiff Hardin
Shook Hardy
Sidley Austin
Skadden
Steptoe & Johnson LLP
Venable LLP
Wiley Rein
Winston & Strawn
Zuckerman Spaeder

= 9

Ex-EPA Attys Blast Pruitt's Sue-and-Settle Directive

U.S. Environmental Protection Agency Administrator Scott Pruitt's recent directive that the agency curb so-called sue-and-settle agreements is based on unfounded claims of EPA collusion with environmental groups, is biased in favor of industry and will likely lead to lengthier and costlier litigation, dozens of former EPA attorneys said Monday. Read more »

Enviros Slam EPA Bid To Sever Coal Ash Issues From Case

Green groups on Monday urged the D.C. Circuit to reject the U.S. Environmental Protection Agency's request that the court remand elements of a coal ash disposal rule to the agency for reconsideration rather than decide legal challenges to them. Read more »

Dover Makes \$7.4M Deal To Clean Up Ohio Superfund Site = 9

Dover Chemical Corp. has agreed to a \$7.4 million cleanup effort at an Ohio Superfund site, the U.S. Department of Justice said Monday. Read more »

HEALTH & LIFE SCIENCES

= 9

Deadlocked Menendez Jurors Are Told To 'Clear Your Heads'

The jurors hearing the bribery trial of Sen. Bob Menendez and a Florida ophthalmologist said Monday that they were deadlocked on all charges, leading a New Jersey federal judge to tell them to break for the day, "clear your heads" and resume deliberations Tuesday morning. Read more »

= 9

NJ Doctor Accused Of Recklessly Pushing Addictive Opioids

A family physician has been temporarily suspended after he was accused of

COMPANIES

Airbnb Inc.

Alliance Defending Freedom

Amazon.com Inc.

America's Essential Hospitals

American Airlines Group Inc.

= 9

American Bankers Association

American Bar Association

American Federation of State, County and Municipal Employees

American Hospital Association

American International Group Inc.

American Public Power Association

Americans United for Life

= 9

Apple Inc.

Associated Electric Cooperative Inc.

Association of American Medical Colleges

BB&T Corporation

Bain & Company Inc.

Bank of America Corporation

= 9

Better Markets Inc.

BuzzFeed Inc.

= 9

Cable News Network Inc.

Cato Institute

Center for Constitutional Rights

Citigroup Inc.

City Utilities of Springfield Inc.

Computer & Communications Industry Association

Deloitte Touche

Deutsche Post

Edison Electric Institute Inc.

indiscriminately prescribing medically unnecessary, highly addictive opioids to patients, the New Jersey Office of the Attorney General announced Monday. Read more » = 9

Health Alliance Sues For \$21M In ACA Risk Corridor Claims

Insurer Health Alliance Medical Plans has sued the federal government in the Court of Federal Claims, alleging it has been unlawfully stiffed on more than \$21 million in Affordable Care Act "risk corridor" payments it is owed for 2016. Read more » = 9

MEDIA & ENTERTAINMENT

= 9

Fla. Senate Bill Aims For Narrower Gaming Reform

A gaming reform bill filed in the Florida Senate on Monday takes a more narrow approach than the ambitious but unsuccessful efforts of recent years, but an anti-gaming group said provisions paving the way for fantasy contests and so-called designated player games raise major concerns. Read more »

Watchdog Orgs. Urge Transparency In Online Election Ads

= 9 Technology and privacy advocacy groups told the Federal Election Commission Friday that it should require disclosures in online political ads after covert Russia-sponsored propaganda was found to have influenced the 2016 presidential election, with at least one group suggesting that broadcast advertising guidelines should apply to web content. = 9 Read more »

EMPLOYMENT

Analysis

5 Employee Wellness Program Tips As EEOC Revisits Regs

= 9

Electronic Privacy Information Center

Eli Lilly and Company

= 9

Ernst & Young

Facebook

FedEx Corporation

Financial Industry Regulatory Authority Inc.

Florida Power & Light Co.

Fordham University

Goldman Sachs Group Inc.

Google Inc.

H. J. Heinz Company

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Human Rights Campaign

ICC Industries

Independent Community Bankers of America

= 9

International Swaps and Derivatives Association

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JPMorgan Chase & Co.

Kraft Foods Inc.

Lawyers' Committee for Civil Rights Under Law

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Lehman Brothers Holdings Inc.

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LinkedIn Corp.

Long Island Rail Road Co.

Lyft Inc.

= 9

NAACP Legal Defense and Educational Fund Inc.

National Collegiate Athletic Association

National Federation of Independent Business

As the U.S. Equal Employment Opportunity Commission conducts a court-ordered review of its wellness program rules, employers that offer such programs must remain cautious about not penalizing workers too harshly if they don't participate and be ready to alter their programs if the regulations change. Here, attorneys share five wellness program tips employers should keep in mind as the EEOC re-evaluates its rules. [Read more »](#)

= 9

High Court Turns Away 4 Notable Employment Cases

The U.S. Supreme Court declined Monday to take up a few notable labor and employment cases, including suits concerning the legality of exclusive bargaining by public sector labor unions, job applicants' standing to sue under the Fair Credit Reporting Act and the National Labor Relations Board's jurisdiction over certain transportation companies. [Read more »](#)

= A

High Court Won't Hear Health Care Workers' Bargaining Suit

The Supreme Court on Monday declined to take up an appeal brought by day care owners and home health care workers in Illinois who challenged a state law that allows public sector unions to negotiate on their behalf even though they're not full-fledged public employees. [Read more »](#)

USCIS Spells Out 'Function Manager' Position Guidelines

= 9 U.S. Citizenship and Immigration Services released a new adopted-decision policy memo Thursday that lays out the requirements for an immigrant to be employed as a "function manager." = 9 [Read more »](#) = 9

PRIVACY & CYBERSECURITY

House OKs Increased Market Data Security Requirements

National Right to Work Legal Defense Foundation
National Rural Electric Cooperative Association

= 9

National Women's Law Center
New York Times Co.
Nomura Holdings, Inc.
Pacific Legal Foundation
Planned Parenthood Federation
PricewaterhouseCoopers
Public Broadcasting Service
Reed Elsevier
Regions Financial Corporation
SIFMA
Schlumberger Limited

= 9

Service Employees International Union
Sierra Club
Spectrum Communications Inc.
Spokeo Inc.
State Street Corp.

= 9

The Royal Bank of Scotland Group PLC
Twitter Inc.

= 9

Washington Post Co.
Wells Fargo & Co.
Yelp Inc.

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GOVERNMENT AGENCIES
Alabama Attorney General's Office
Bureau of Citizenship and Immigration Services
Bureau of Reclamation
Centers for Medicare & Medicaid Services

= 9 Citing an increased risk from data breaches, the U.S. House of Representatives approved a bill Monday that would increase security requirements for market data held by the Securities and Exchange Commission and the Financial Industry Regulatory Authority. [Read more »](#)

GOVERNMENT CONTRACTS

= 9

House Passes Bill Expanding Agency Acquisition Options

The House of Representatives passed a bill Monday that would alter how federal agencies weigh the cost of renting equipment against purchasing it when making buying decisions. [Read more »](#)

INTERNATIONAL TRADE

Analysis

TPP Revival Effort Leaves US Out In The Cold

= 9 The 11 countries still under the Trans-Pacific Partnership umbrella revived the beleaguered pact over the weekend with tweaks to its intellectual property and shipping provisions, in a move that experts say will leave the U.S. vulnerable in the crucial Asia-Pacific region as the Trump administration narrows its trade focus. [Read more »](#)

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US, Vietnam Announce \$12 Billion In New Trade Deals

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President Donald Trump and Vietnamese President Tran Dai Quang announced \$12 billion in new trade deals during a visit by Trump to Hanoi, Vietnam, this weekend, with both leaders vowing to deepen trade ties and cooperation between the two nations, according to an announcement by the White House Monday. [Read more »](#)

Committee on Foreign Investment in the United States

Commodity Futures Trading Commission

Congressional Budget Office

Consumer Financial Protection Bureau

Equal Employment Opportunity Commission

Executive Office of the President

Federal Bureau of Investigation

Federal Communications Commission

Federal Deposit Insurance Corp.

Federal Election Commission

Federal Financial Institutions Examination Council

Federal Reserve System

Federal Trade Commission

Florida State Senate

Food and Drug Administration

Government Accountability Office

NAFTA

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National Labor Relations Board

National Mediation Board

National Railroad Passenger Corporation

New York Attorney General's Office

= 9

Office of the Comptroller of the Currency

Office of the Director of National Intelligence

Securities and Exchange Commission

TAX

= 9

= A House And Senate Divided Over Property Tax Deduction

Just days after the Senate unveiled its version of tax reform legislation, House Ways and Means Committee Chairman Kevin Brady said the measure wouldn't pass in the lower chamber unless it includes some level of relief for property taxes. [Read more »](#)

= 9

Senate Dems Cry Foul Over Tax Reform Process

Democrats on the Senate Finance Committee accused their Republican colleagues Monday of shutting them out of the tax reform process during the opening hearing for a bill that would slash \$1.5 trillion in taxes over the next decade. [Read more »](#)

= A

Senate Tax Bill Squeaks Under \$1.5T Deficit Cap, Report Says

A recent report by the Joint Committee on Taxation found that the Senate Republicans' tax overhaul bill would deplete federal coffers by slightly less than the \$1.5 trillion limit for passing the measure under fast-track rules, but additional revenue losses after 10 years could still present a roadblock. [Read more »](#)

= A

Big 4 Corp. Clients Likelier To Use Tax Havens, Study Says

Companies that use one of the Big Four accounting firms are more likely to allocate income to alleged tax havens — even if they don't use the firms for tax planning, according to a study released Monday by activist group Tax Justice Network. [Read more »](#)

BANKRUPTCY

Seminole Tribe of Florida

Texas Department of Transportation

Transportation Security Administration

U.S. Coast Guard

U.S. Customs and Border Protection

= 9

U.S. Department of Defense

U.S. Department of Energy

U.S. Department of Health and Human Services

U.S. Department of Homeland Security

U.S. Department of Justice

U.S. Department of Labor

U.S. Department of Transportation

U.S. Environmental Protection Agency

U.S. House of Representatives

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U.S. Immigration and Customs Enforcement

U.S. Postal Service

U.S. Senate

= 9

U.S. Supreme Court

United Nations

World Trade Organization

Puerto Rico Gov't Wins Autonomy Fight Over Electric Co.

The judge presiding over Puerto Rico's historic restructuring proceedings ruled Monday that the territory's insolvent electric company will remain under local government control as it restructures \$9 billion worth of debt and addresses operational weaknesses, blocking a federal panel from installing an emergency manager to run the utility. [Read more »](#)

IMMIGRATION

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High Court Urged To Review Convicted Resident's Deportation

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A Dominican man who is a lawful permanent resident of the U.S. has urged the U.S. Supreme Court to review his bid to cancel a removal order after he tried to re-enter the country after a brief vacation with a record of prior convictions for drug offenses. [Read more »](#)

= 9

Rep. Slams Rejection Of DACA Applications Delayed In Mail

An Illinois congressman said Friday that it was "unacceptable" for federal officials to deny at least 21 renewal applications for the endangered Deferred Action for Childhood Arrivals program that were sent on time but apparently mishandled by the U.S. Postal Service. [Read more »](#)

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NATIVE AMERICAN

FCC Hires Head For Tribal Affairs Policy Office

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The Federal Communications Commission has hired an experienced attorney and policy analyst with a background in energy and Indian

water-rights issues to direct the office overseeing the deployment of telecommunications throughout Indian Country, the agency announced Monday. [Read more »](#)

= A-CIVIL RIGHTS

= 9

Legal, Civil Rights Groups Chime In On High Court Cake Row

A host of civil rights organizations including legal-oriented advocacy groups has urged the U.S. Supreme Court to reject a Christian baker's contention that his First Amendment rights enabled him to overstep state discrimination laws when he refused to make a cake for a same-sex couple's wedding. [Read more »](#)

WHITE COLLAR

JPMorgan, FCA Whistleblower Get Testy Welcome At DC Circ.

A D.C. Circuit panel on Monday greeted a would-be whistleblower with a flurry of questions on the underlying nature of his False Claims Act suit against JPMorgan Chase as he tries to revive accusations that the company failed to live up to responsible mortgage lending obligations agreed to under a post-financial crisis settlement. = 9 [Read more »](#) = 9

PEOPLE

Senate Approves Lyft GM For Senior DOT Role

The Senate confirmed Lyft Inc.'s general manager for the number three spot at the U.S. Department of Transportation on Monday, sending President Donald Trump's pick Derek Kan to head the department's policy arm. [Read more »](#)

Fla. City Attorney Leaving For US Labor Dept. Job

The city attorney for Coral Gables, Florida, is departing to take a position with the U.S. Labor Department after six years in which he helped grow the city attorney's office and built a reputation for defending home rule rights and inclusion for the disabled, according to city leaders. Read more »

= 9

Trump Nominates Holland & Knight Partner To Be GC Of DNI

A Holland & Knight LLP partner with years of government experience in counterterrorism, government procurement and regulatory compliance was named by President Donald Trump on Monday for a position as the top lawyer for the Office of the Director of National Intelligence. Read more » = 9

EXPERT ANALYSIS

New Bipartisan CFIUS Reform Begins To Take Shape

The Foreign Investment Risk Review Modernization Act of 2017 introduced last week is intended to strengthen the Committee on Foreign Investment in the United States and address the committee's perceived inadequacies. If enacted, this legislation would reflect the most significant changes to CFIUS in the last decade, say attorneys with Kirkland & Ellis LLP. Read more » = A

How Tax Reform Could Impact The Health Care Industry

The U.S. House and Senate have now both detailed their tax reform plans, and both plans could have significant effects on the health care industry. Lower corporate tax rates could benefit companies in the health sector, but changes to the orphan drug tax credit and medical expense deduction would be damaging, say attorneys at Debevoise & Plimpton LLP. Read more ½ B

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Gov't Use Of Travel Act To Charge Corruption Might Backfire

Federal prosecutors may be hoping that Travel Act charges against the NCAA basketball coaches and others avoid the U.S. Supreme Court's narrowing of federal corruption statutes. But by using state corruption laws in these cases, federal prosecutors risk having *McDonnell v. U.S.* extend to state crimes and crippling local corruption prosecutions everywhere, say Elizabeth Capel and Brandon Fox of Jenner & Block LLP. [Read more »](#)

= 9

= 9 CFPB Financial Data Principles: Whose Data Is It Anyway?

The Consumer Financial Protection Bureau recently released guidance addressing consumer protection principles for consumer-authorized financial data sharing and aggregation. Attorneys with Mayer Brown LLP discuss what the new guidance entails and what it may mean for consumers, fintech companies and the financial services industry. [Read more »](#)

Core Functions And Cooperative Federalism At The EPA = 9

The U.S. Environmental Protection Agency's recently released draft strategic plan for 2018-2022 starkly narrows the items on which the EPA will focus its resources and turns the agency's back on many objectives contained in the previous plan — things that the Trump administration and Administrator Scott Pruitt believe should not be done at all, says Dan Jordanger of Hunton & Williams LLP. [Read more »](#)

Financial Crisis Anniversary

Dodd-Frank And Deregulation: Some Lessons From History

= 9

The Dodd-Frank Act, while imperfect, addressed what actually did cause the financial crisis: unreasonable risk-taking, low capital and

high leverage, shadow banking, and much more. The evidence is overwhelming that financial reform is working, that the risk of a crash in the U.S. is greatly reduced, and that banks are highly profitable, says Dennis Kelleher, president of Better Markets Inc. [Read more »](#)

LEGAL INDUSTRY

BigLaw's 2017 Profits May Suffer Due To Salary Hikes

Law firms may be on course to have a down year, according to the results of a survey published Monday, with financial results for the first three quarters of the year revealing a slowdown in revenue growth and an uptick in expenses across the industry due to recent associate salary hikes. [Read more »](#)

Analysis

Why Law Firm Leaders Should Embrace The Limelight

= 9

Building a highly recognizable and respected brand as a law firm leader is difficult in today's legal industry, but doing so is likely worth the effort. Here, Law360 looks at the benefits of embracing the limelight and shaping a strong public image. [Read more »](#)

Trump Court Pick Knocked For Keeping Mum On Wife's Job

= 9 A Trump pick for the federal bench in Alabama "betrayed his obligation to be open and transparent" in the judicial confirmation process by failing to mention that his wife is a White House lawyer, California Sen. Dianne Feinstein said Monday. [Read more »](#)

= 9 15 Minutes With Kraft Heinz Co.'s General Counsel

Jim Savina joined Kraft Foods Group in 2013 as associate general counsel, and two years later, became its deputy general counsel,

helping to oversee its 2015 merger with H. J.
Heinz Co. [Read more »](#)

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Monday, November 20, 2017



= 9

TOP NEWS

Trump Adds 5 Names To Supreme Court Potential List

= A

President Donald J. Trump announced on Friday the addition of five new names to the list of judges that he will draw upon to fill a potential vacancy in the U.S. Supreme Court. [Read more »](#)

= 9

4 New US Atty Nominees Come From Prosecutors' Ranks

The Trump administration announced nominees to fill four of the outstanding U.S. attorney vacancies on Friday, picking county attorneys in Nebraska and New Hampshire and inviting the federal prosecutors currently



[Listen to our new podcast here](#)

= A

LAW FIRMS

leading the Delaware and Oregon offices to stay. [Read more »](#)

Sessions Halts DOJ Guidance That Creates New Rules

= 9 Attorney General Jeff Sessions has ordered the Department of Justice to stop creating new rules through guidance documents and instead follow the normal regulatory process, he said Friday, an issue that has grated on compliance professionals. [Read more »](#)

= 9-

Analysis

Open Questions Surrounding The Next-Gen TV Standard

The Federal Communications Commission voted Thursday to allow broadcasters to begin using the new internet protocol-based television standard, but the immediate impacts of voluntarily adopting ATSC 3.0 still remain clouded. Here, Law360 gets experts' take on 3 open questions surrounding the advent of ATSC 3.0. [Read more »](#)

15 States Tell 4th Circ. Travel Ban 'Imperiling' Industries

Fifteen states and the District of Columbia urged the Fourth Circuit to preserve a Maryland federal court's block on President Donald Trump's travel ban preventing nationals of several predominantly Muslim countries from entering the U.S., saying the restrictions hurt tourism and recruitment of international talent. [Read more »](#)

= 9

BANKING & SECURITIES

= 9

Analysis

Noreika's Brief OCC Term Began Bank Rule Transformation

Acting directors of federal agencies typically keep a low profile, managing an organization

Akin Gump

Arnold & Porter Kaye Scholer

= A

BakerHostetler

Baron & Budd

= 9

Boies Schiller

Bond Dickinson

Bradley Arant

Broad and Cassel

Buckley Sandler

Carlton Fields

Carter Wolden

= 9

Covington & Burling

Davis Wright Tremaine

= 9

Dewey & LeBoeuf

Duane Morris

Fletcher Heald

= 9

Gibson Dunn

Golomb & Honik

Gordon & Rees

GrayRobinson

Greenberg Traurig

Haynes and Boone

Hogan Lovells

= 9

Hopping Green

Hughes Hubbard

Hunton & Williams

Husch Blackwell

Ifrah Law

Jones Day

Katten Muchin

= 9

Kirkland & Ellis

Milbank Tweed

until a full-time agency head can get Senate confirmation. That has not been the case with Keith Noreika, the outgoing acting comptroller of the currency, who in the span of roughly six months led the Trump administration's charge to fundamentally shift the regulatory environment for banks. [Read more »](#)

Treasury Advises FSOC Take 'New Approach' To Nonbanks

= 9 The U.S. Department of the Treasury on Friday called for the Financial Stability Oversight Council to take a "new approach" to safeguarding the financial system, urging the Dodd-Frank Act-created panel to shift away from tagging nonbank financial firms for tougher regulatory scrutiny and instead take an industrywide view that looks at particular products and activities. [Read more »](#)

= 9

DA's Deal With Law Firms Is Illegal, Skeptical 9th Circ. Told = 9

A bank argued Friday that Baron & Budd PC, Carter Wolden Curtis LLP and Golomb & Honik-PC couldn't legally prosecute, on behalf of a district attorney, allegations it tricked customers into buying credit card protection plans, prompting a Ninth Circuit panel to note that private individuals prosecute public matters all the time. [Read more »](#)

ENERGY & ENVIRONMENTAL

10 Questions For The EPA's Bill Wehrum

= 9

The U.S. Environmental Protection Agency's new air chief Bill Wehrum won't just be helping the Trump administration roll back Obama-era rules like the Clean Power Plan, he'll also be taking a close look at the agency's 2009 carbon dioxide endangerment finding and its New Source Review permitting program, he

Morgan Lewis

= 9

Nixon Peabody

Norton Rose Fulbright

Nossaman LLP

Pepper Hamilton

Pillsbury Winthrop

Quinn Emanuel

Reed Smith

Riley Safer

Rittenberg Samuel

= 9

Rosenn Jenkins

Scarinci Hollenbeck

Shute Mihaly

= 9

Sidley Austin

= 9

Simpson Thacher

Skadden

Sohagi Law Group

Squire Patton Boggs

Thompson Coburn

Weinheimer Haber

= 9

White and Williams

Wiley Rein

WilmerHale

COMPANIES

Akamai Technologies, Inc.

= 9

Alliance Data Systems Corporation

Altman Weil Inc.

American Bar Association

American Cable Association

American Civil Liberties Union

American International Group Inc.

Angie's List Inc.

told Law360 in an exclusive interview. Read more »

= 9

\$200B San Diego Transpo Plan Still Inadequate On Appeal

A split California appeals court ruled Thursday that a San Diego regional planning agency failed to properly analyze greenhouse gas reduction and assess public health risks in a 2011 review of a \$200 billion long-term transportation plan. Read more »

Wash. Reps Float Bill To Speed Up DOI Water Project Reviews

Two Republican lawmakers introduced a bill Thursday meant to speed up the environmental planning and review of water projects by two U.S. Department of the Interior agencies and to advance a specific water management project for the Yakima River in Washington state. Read more »

HEALTH & LIFE SCIENCES

= 9

Providers' Challenge To La. Abortion Law Can Proceed

A Louisiana federal judge has trimmed slightly a suit by abortion providers against seven new state laws designed to discourage the procedure, finding the plaintiffs can lodge equal protection and undue burden claims against most of the measures but lacked standing on one. Read more »

= 9

Abortion Foes Tell 9th Circ. Free Speech Trumps Tape Suit

= 9

Planned Parenthood failed to properly fight off a free speech challenge to its suit over secretly recorded videos purporting to show the improper sale of fetal tissue, anti-abortion activists told a Ninth Circuit panel Friday,

Association of American Railroads
BuzzFeed Inc.

Cato Institute

Center for Biological Diversity Inc.

= 9

Charter Communications Inc.

Citigroup Inc.

Cook Group Inc.

DePuy Synthes Cos.

Deloitte Touche

Discover Financial Services

= 9

Drucker & Scaccetti PC

Eli Lilly and Company

Equifax Inc.

Ernst & Young

Facebook

Fannie Mae

Federalist Society

= 9

Fortress Investment Group LLC

Freddie Mac

= 9

General Electric Capital Corp.

Google Inc.

= 9

H. J. Heinz Company

HRC Investors Corp.

Instagram Inc.

International Brotherhood of Teamsters

Johnson & Johnson

Kraft Foods Inc.

Limelight Networks, Inc.

Los Angeles Times

National Air Transportation Association

National Immigration Law Center

saying a lower court erred in finding in favor of the health care provider. Read more » = 9

Children's Health Org Backs Hospitals In 1st Circ. CMS Row

The Children's Hospital Association urged the First Circuit on Thursday to uphold several New Hampshire hospitals' win in a dispute over the alteration of a Centers for Medicare & Medicaid Services reimbursement policy, saying a reversal would have "far-reaching and harmful impacts" to children's health organizations. Read more »

= A IP & TECHNOLOGY

= 9

Fed. Circ.'s Judge Lourie Defends Court's Patent Purview

The Federal Circuit's recent rash of reversals at the U.S. Supreme Court isn't cause for worry, according to Federal Circuit Judge Alan D. Lourie, who said Friday they're a sign of reasonable differences in high-stakes cases. Read more »

= A TRANSPORTATION & INFRASTRUCTURE

Amtrak Asks High Court To Revive STB On-Time Train Rule = 9

Amtrak has asked the U.S. Supreme Court to determine whether the Surface Transportation Board has authority to define an "on-time" passenger train when investigating railroads for delays, saying a recent void in the law jeopardizes Amtrak's longstanding right of way over cargo traffic on railways. Read more »

= 9 EMPLOYMENT

= A

NJ Court Revives Fired Worker's Mayoral 'Hit List' Suit

= 9

National Right to Work Legal Defense Foundation

New York Times Co.

OneWest Bank Group LLC

Planned Parenthood Federation

= 9

PricewaterhouseCoopers

Prudential Financial Inc.

Resolution Economics LLC

= 9

Retrophin Inc.

Salesforce.com Inc.

Service Employees International Union

Sierra Club

Snap Inc.

= A

State Farm

Stout Risius Ross LLC

Texas Children's Hospital

The Siegfried Group

Time Warner Inc.

Twitter Inc.

= 9

Union Pacific Corporation

Verizon Communications

Wilmington Trust Corp.

Xerox Corporation

GOVERNMENT AGENCIES

Army Corps of Engineers

Bureau of Indian Affairs

= 9

Bureau of Reclamation

Centers for Medicare & Medicaid Services

Committee on Foreign Investment in the United States

The New Jersey Appellate Division on Friday revived a former school employee's suit alleging that she was on a town mayor's so-called hit list and fired in retaliation for not lending him political support, ruling that she presented sufficient evidence to go before a jury. Read more »

= 9

NLRB Union Election Filings Drop, But Cases Moving Briskly

During the second full fiscal year after the National Labor Relations Board implemented a controversial rule updating the process for union representation cases, fewer union election petitions were filed than the year before, and elections were conducted more quickly than before the regulation was in place, according to data the agency has released. Read more »

= 9

COMPETITION

= 9

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FCC 'Strayed Too Far' From Merger Role, New Commish Says

The Federal Communications Commission "strayed too far" from its proper role in merger reviews in recent years, the newest Republican member of the agency said Friday, criticizing the last administration for making consumer "goodies" a condition of various telecom deals. Read more = 2

PRIVACY & CYBERSECURITY

= 9

House Committee Presses Equifax For More Breach Details

= 9

House Energy and Commerce Committee leaders on Friday dialed up the heat on Equifax over a massive data breach that

Commodity Futures Trading Commission

Consumer Financial Protection Bureau

Department of Commerce

= A

Equal Employment Opportunity Commission

European Commission

European Union

Executive Office of the President

= 9

Federal Communications Commission

Federal Deposit Insurance Corp.

Federal Railroad Administration

Federal Reserve Bank of New York

Federal Reserve System

Financial Stability Oversight Council

Internal Revenue Service

International Trade Commission

Judicial Conference of the United States

= 9

NAFTA

NATO

National Labor Relations Board

= 9

National Railroad Passenger Corporation

National Security Agency

New Hampshire Department of Health & Human Services

= 9

New Jersey Department of Education

= 9

New York Attorney General's Office

= 9

compromised 145.5 million Americans' personal and financial records, demanding more answers to questions related to the software vulnerability that was exploited, the credit bureau's response to the incident and a potential second compromise in mid-October. [Read more »](#)

AEROSPACE & DEFENSE

House Dems Want Trump To Reverse DOD Afghan Secrecy Policy

A pair of senior House Democrats urged President Donald Trump Friday to reverse a U.S. Department of Defense policy to classify previously public information on the performance and strength of Afghanistan's armed forces, saying it will harm the ability of Congress to properly oversee U.S. operations in Afghanistan. [Read more »](#)

INTERNATIONAL TRADE

= 9

In Unusual Move, US Releases 'Updated' NAFTA Goals = 9

The Trump administration on Friday took the unorthodox step of updating its goals for renegotiating the North American Free Trade Agreement just as talks with Canada and Mexico have begun to hit a rough patch, saving some of its most ambitious changes for the agreement's investment arbitration section. [Read more »](#)

Commerce Says Pipe Co. Same As One Eyed In Dumping

The U.S. Department of Commerce announced Friday that it has preliminarily determined that a Mexican pipe manufacturer is the successor to a previous company that it is monitoring for dumping activity related to rectangular pipes and tubes. [Read more »](#)

Office of the Comptroller of the Currency

Ohio Supreme Court

Securities and Exchange Commission

Special Inspector General for Afghanistan Reconstruction

Surface Transportation Board

Transportation Security Administration

U.S. Army

U.S. Department of Defense

U.S. Department of Health and Human Services

U.S. Department of Homeland Security

U.S. Department of Justice

U.S. Department of Transportation

U.S. Department of the Interior

U.S. Department of the Treasury

U.S. Environmental Protection Agency

U.S. House Committee on Energy and Commerce

U.S. House of Representatives

U.S. Postal Service

U.S. Senate

U.S. Supreme Court

ITC Will Examine African Trade As US Eyes Expansion

The U.S. International Trade Commission said Friday it's launching an investigation into the nation's trade relationships in sub-Saharan Africa, examining growth in U.S. imports and exports and assessing the continent's noncrude petroleum and other possible markets for trade. [Read more »](#)

Chile, EU Initiate Talks To Update Relations, Expand Trade

Chile and the European Union have formally initiated negotiations to modernize their Association Agreement in an effort to expand bilateral relations and collaborate in additional areas, the European Commission announced on Thursday. [Read more »](#)

TAX

= 9

Analysis

Tax Bill's Ambiguity Increases

Investors' Litigation Risk

The tax bill that recently passed the U.S. House of Representatives is missing key definitions and contains ambiguous terms relating to the use of so-called carried interest in the asset management business, which could result in investors taking risky positions on their tax returns to seek clarification from the courts. [Read more »](#)

Senate Tax Bill Amendments Include Whistleblower Incentives

Sen. Orrin Hatch, R-Utah, on Thursday night offered last-minute amendments to the GOP tax bill that included tax deductions and potentially larger awards for whistleblower claims. [Read more »](#)

Industry Defends Senate Tax Bill's Private Jet Fee Exemption

Aviation industry groups are defending a new provision affecting private aircraft management firms in the Senate GOP tax reform bill. [Read more »](#)

= 9

Philly Wants Suits Against Property Revaluation Plan Tossed

The city of Philadelphia asked a state court judge on Thursday to toss two lawsuits challenging its effort to raise \$118 million in new tax revenue through targeted property revaluations, saying the petitioners were first obligated to appeal their new assessments. [Read more »](#)

High Court Asked To Review Attorney Fee Denial In Tax Case

= 9A taxpayer petitioned the U.S. Supreme Court to review a Fourth Circuit decision upholding a district court's rejection of his motion to recover nearly \$600,000 in attorneys' fees, even though he prevailed on the merits of the underlying case. [Read more »](#)

IMMIGRATION

= 9

Judge Won't Rethink Injunction In Sanctuary City Funds Row = 9

An Illinois federal judge on Thursday shot down Chicago's bid to reconsider an order that partially denied the city's request for an injunction against anti-sanctuary city conditions for certain grants, unmoved by a new letter to a city official from the U.S. Department of Justice. [Read more »](#) = 9

Dems Ask Trump DHS Pick To Address Immigration Concerns

Senate Minority Whip Dick Durbin, D-Ill., ranking member of the immigration subcommittee, and 19 other Senate Democrats sent a letter Thursday to Secretary of Homeland Security nominee Kirstjen Nielsen asking if she'd advocate for legislation that

protects young immigrants living in the country illegally from deportation. [Read more »](#)

TELECOMMUNICATIONS

= 9

FCC Nixes 'Excessive' Regulation In Fiber Transition

Federal Communications Commission Chairman Ajit Pai and the commission's Republican majority voted Thursday to accelerate the country's shift from a copper data network to fiber optics, saying unneeded regulations deter many companies from investing in these new networks. [Read more »](#)

2

PEOPLE

Ohio Justice's 'Crass' Boasts Of Sexual Trysts Slammed

A An Ohio Supreme Court justice who is running for governor added fuel to the fiery national debate about sexual harassment when he boasted Friday that he has had sex with about 50 "very attractive females," remarks that a top state official called crass, ill-timed and "dismissive at best." [Read more »](#)

EXPERT ANALYSIS

The Conspiracy And FBAR Charges Against Manafort, Gates

The charges against Paul Manafort and Richard Gates differ in significant respects from similar cases where the government has charged a Klein conspiracy as well as a willful failure to file reports of foreign bank and financial accounts, says Robert Adler of Nossaman LLP. [Read more »](#) = 9

From Snaps To Tweets: The Craft Of Social Media Discovery

Courts have consistently held that social media accounts are subject to established discovery principles but are reluctant to allow parties to

rummage through private social media accounts. Recent case law confirms that narrowly tailored information requests get the best results, say Matthew Hamilton, Donna Fisher and Jessica Bae of Pepper Hamilton LLP. [Read more »](#)

= 9 LEGAL INDUSTRY

Analysis

Ex-Weinstein Attys Muddy BigLaw's Rep For Keeping Secrets

Defying the tight-lipped tradition of lawyers who have represented reviled clients, two of Harvey Weinstein's former attorneys have issued public explanations of their work and spoken extensively to the press about their "mistakes," a phenomenon some experts say undermines public confidence that lawyers, regardless of their own reputations, will keep client matters close. [Read more](#) = 2

= 9

'Long Siege' For Ex-Dewey Controller Ends With No Jail

The former controller at Dewey & LeBoeuf LLP saw the end to what his attorney called a "long and arduous siege" on Friday when he was sentenced to 100 hours of community service after cooperating in the prosecution of his ex-colleagues for more than three years. [Read more »](#)

= 9

Fla. Judicial Panel Offers Sens. 4 Names For District Seat

The commission tasked with screening candidates for federal judgeships in Florida sent four names — two trial court judges and two appellate judges — to the state's U.S. senators for a vacancy in the Northern District of Florida. [Read more »](#) = 9

GC Cheat Sheet: The Hottest Corporate News Of The Week

The U.S. Supreme Court turned away four notable employment cases, a study found more legal departments are looking to grow their outside counsel spending next year, and Kraft Heinz Co.'s GC told Law360 about the changing food industry. These are some of the top stories in corporate legal news you may have missed last week. [Read more »](#)

= 9

Podcast

Law360's Pro Say: GOP Goes To War With ABA Over Judges

On the latest episode of Law360's Pro Say podcast, the team discusses the escalating war of words between Republicans and the American Bar Association over how judicial nominees are vetted. We also tackle a BigLaw attorney in hot water after her comments about sexual harassment on Fox News, the Menendez corruption trial ending in a hung jury, and some unusual facts about one of President Donald Trump's judicial picks. [Read more »](#)

In Case You Missed It: Hottest Firms And Stories On Law360

For those who missed out, here's a look back at the law firms, stories and expert analyses that generated the most buzz on Law360 last week. [Read more »](#)

= 9

Series

My Strangest Day In Court: Arguing From The Gallery

Appellate lawyers are usually silent observers at trial who collaborate on legal strategy, conduct research during court breaks, and craft jury instructions, verdict forms and major motions. But as I discovered in one trial, this is not always the case, says M.C. Sungaila of Haynes and Boone LLP. [Read more »](#)

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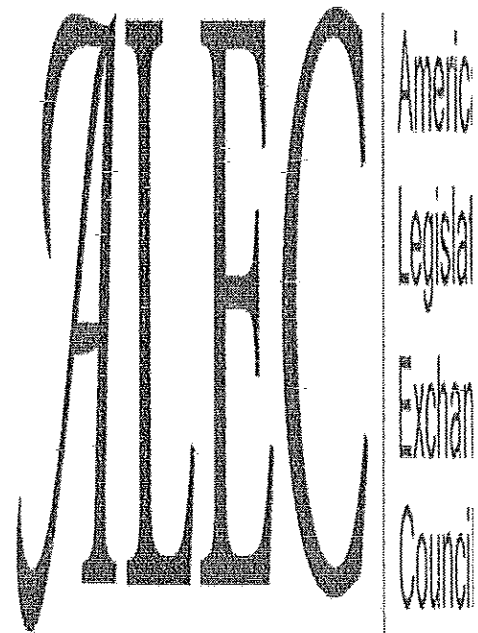
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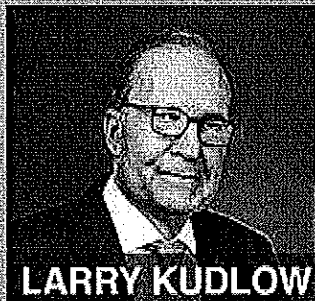


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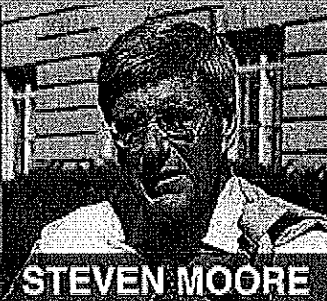
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December 6 - 8, 2017 - Nashville, TN

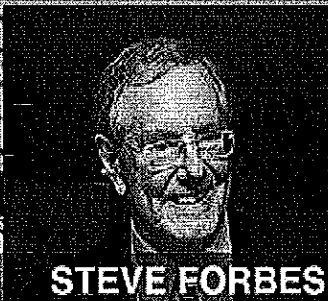
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LARRY KUDLOW



STEVEN MOORE



STEVE FORBES



ART LAFFER

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Workshops

Gain even more understanding of hot issues facing the states.

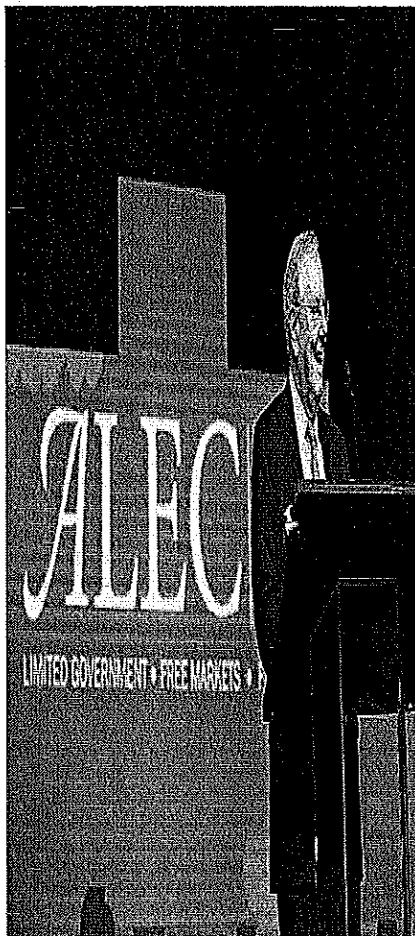
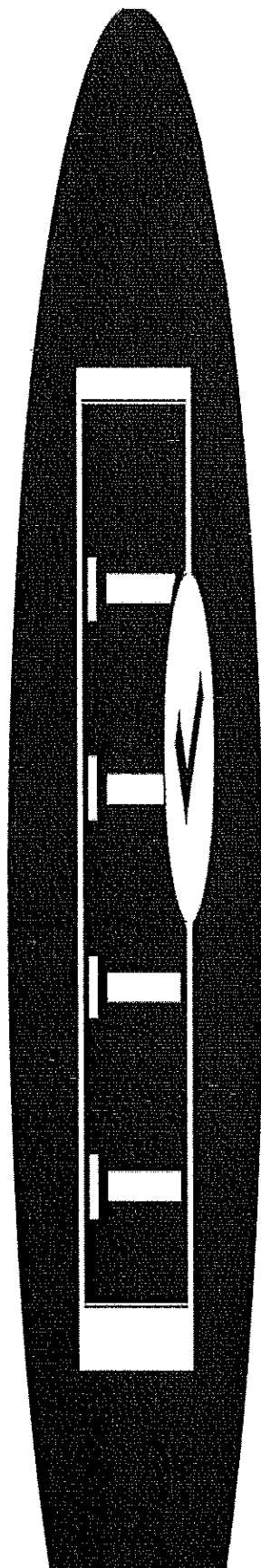
Issue areas include:

- Free Speech
- Redistricting
- Criminal Justice Reform
- Voting Integrity
- Drug Pricing

- Medicaid Reform

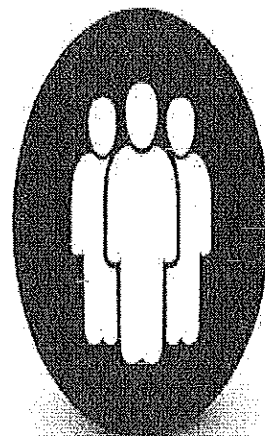
- Opioids
- Grassroots Training

- Electric Grid



02 | Speakers

Are these speakers part of your Nashville playlist? The line-up includes Honorable Ken Cuccinelli, Steve Forbes, Larry Kudlow, Dr. Art Laffer, Steven Moore and Allie Stucky - to name a few.



03 | Networking

Looking to meet new friends or connect with old ones? Join us for the Tennessee Welcome Reception on Wednesday, December 6 to network and get a taste of Tennessee!

01 | Agenda

Wondering what will be discussed at the ALEC States and Nation Policy Summit? Visit the [online agenda](#) to see a detailed list of events taking place.



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TOP NEWS

= 9

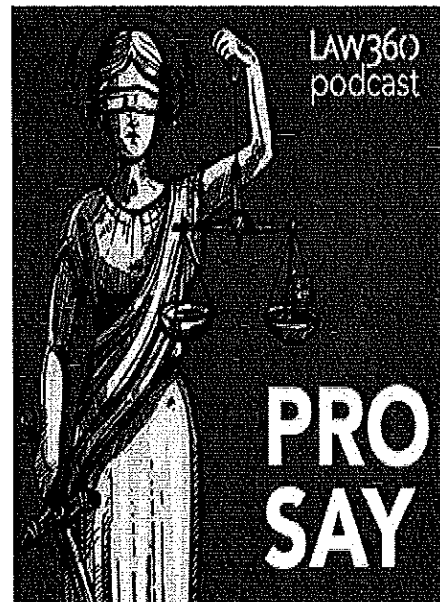
Jones Day Vet Set For Final Vote In DC Circ. Bid

The U.S. Senate has set up White House Deputy Counsel and Jones Day veteran Gregory Katsas' confirmation to the D.C. Circuit for a final vote later this week, after his nomination cleared a procedural hurdle Monday. [Read more »](#)

= 9

Trump Pick For DC District Court Clears Senate

The U.S. Senate has pushed through another of President Donald Trump's nominees to the federal bench, approving former U.S. Sentencing Commission member Dabney Friedrich to a court seat in the District of Columbia. [Read more »](#)



[Listen to our new podcast here](#)

= 9

LAW FIRMS

Treasury, IRS Appeal Invalidation Of Anti-Inversion Rule

The U.S. Department of the Treasury and the Internal Revenue Service announced on Monday that they are appealing a Texas federal court's decision to invalidate the anti-inversion rule that sank a planned \$160 billion merger between Pfizer Inc. and Irish counterpart Allergan PLC. [Read more »](#)

Dems' House Judiciary Leadership Shuffles Amid Sex Probe

After Rep. John Conyers, D-Mich., stepped down as the top Democrat on the House Judiciary Committee on Sunday amid sexual harassment allegations, Rep. Jerrold Nadler, D-N.Y., appears poised to take over the role. [Read more »](#)

= A

Analysis

CFPB's Temporary Leadership Hinges On Judge's Analysis

The immediate future of the Consumer Financial Protection Bureau could hinge on the way a federal judge in Washington interprets the language in the bureau's implementing law that set up a method for appointing an acting director, experts say. [Read more »](#) = 9

Gov't Seeks To Chuck Princeton, Microsoft DACA Case

= 9 The federal government asked a D.C. federal court Wednesday to dismiss a case brought by Princeton University and Microsoft fighting the rollback of Deferred Action for Childhood Arrivals, arguing that the dispute over the program for young immigrants can't be decided by the courts. [Read more »](#) = A

ENERGY & ENVIRONMENTAL

4 States Push 10th Circ. To Rethink Fracking Rule Decision

Akin Gump
Altshuler Berzon
Baker McKenzie
BakerHostetler
BatesCarey LLP
= 9
Burr & Forman
Cohen Milstein
Cooley
Cozen O'Connor
Cravath Swaine
DLA Piper
Davis Polk
Dechert
Dentons
Drinker Biddle
Earthjustice
Gibson Dunn
Gupta Wessler
Hogan Lovells
Hunton & Williams
Irell & Manella
= 9
Jenner & Block
Jones Day
King & Spalding
Kirkland & Ellis
Latham & Watkins
Littler Mendelson
Locke Lord
Mayer Brown
McDermott Will
= 9
McGuireWoods
Milbank Tweed
Morgan Lewis
Morrison & Foerster
O'Melveny & Myers
Paul Weiss

Four states have asked the Tenth Circuit to allow them to file an additional court document supporting their request for the court to revisit its rejection of their challenge to an Obama-era hydraulic fracturing rule for federal and Native American lands. [Read more »](#)

HEALTH & LIFE SCIENCES

= 9

Watchdog Knocks VA's Oversight Of Docs' Performance

The Department of Veterans Affairs' process for reporting and removing its doctors when quality or safety concerns arise needs work, the Government Accountability Office found in a report published Monday. [Read more »](#)

= 9 IP & TECHNOLOGY

= A

UK To Expand IP Royalty Taxes To Other Countries

The U.K. government has announced that it will tax intracompany royalty payments for intellectual property related to sales to British customers even if the subsidiary using the IP is in another country, a measure it says is aimed at digital multinational businesses shifting profits into low-tax jurisdictions. [Read more »](#)

EMPLOYMENT

= A

Calif. High Court OKs Farmworker Union Mediation Scheme

The California Supreme Court on Monday upheld a state mechanism that sends union farmworkers and farms to contract mediation if they can't reach a collective bargaining agreement, reversing a Fifth District ruling that the law discriminates by holding farms to different standards. [Read more »](#)

Pillsbury Winthrop

Post & Schell

Reed Smith

Sidley Austin

= 9

Skadden

= 9

Venable LLP

White & Case

Wilkinson Barker

WilmerHale

COMPANIES

Allergan PLC

American Civil Liberties Union

BTI Consulting Group Inc.

BuzzFeed Inc.

CIM Group Inc.

Cable-Satellite Public Affairs
Network

Churchill Downs Inc.

Citizens for Responsibility and
Ethics in Washington

Federalist Society

Fordham University

Frontier Communications
Corporation

Google Inc.

= 9

Kentucky Derby

Los Angeles Times

Microsoft Corporation

National Immigration Law Center

= 9

PHH Corporation

Petco Animal Supplies Inc.

Pfizer Inc.

Procter & Gamble Co.

Sierra Club

Trump Organization Inc.

COMPETITION

EU Probes \$523M Aid To Spanish Coal Plants

The European Union's competition watchdog on Monday said it will review a program by Spanish authorities involving €440 million (\$523.5 million) in environmental incentives for coal power plants that may have violated EU rules and given the plants an unfair advantage over other types of power providers and industry players. Read more ½ B

CONSUMER PROTECTION

= 9

DOL Officially Delays Obama-Era Fiduciary Rule

The U.S. Department of Labor on Monday extended the transition period and delay of the so-called fiduciary rule for retirement account advisers, announcing that its provision requiring fiduciaries to promise to work in investors' best interests will not take effect until July 1, 2019. Read more »

= 9

Mulvaney Puts CFPB Regs On Hold Amid Leadership Brawl

Office of Management and Budget Director Mick Mulvaney on Monday put in place a 30-day regulatory and hiring freeze at the Consumer Financial Protection Bureau, despite questions hanging over his appointment as acting director for the federal consumer finance watchdog. Read more »

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'No Assurances' For CFPB Deputy, But No Plans To Fire Yet = 9

A government attorney said he knew of no plans Monday to fire the woman suing to block President Donald Trump's pick for the Consumer Financial Protection Bureau's top

Twitter Inc.

U.S. Chamber of Commerce

United Farm Workers

Wal-Mart Stores Inc.

GOVERNMENT AGENCIES

Bureau of Indian Affairs

Bureau of Land Management

California Attorney General's Office

California Environmental Protection Agency

Committee on Foreign Investment in the United States

Consumer Financial Protection Bureau

Department of Commerce

Eastern Shoshone Tribe

= 9

European Commission

European Union

Executive Office of the President

Federal Bureau of Investigation

Federal Communications Commission

Federal Reserve System

Federal Trade Commission

Government Accountability Office

Internal Revenue Service

= 9

New York Attorney General's Office

Northern Arapaho Tribe

Office of the U.S. Trade Representative

Pinoleville Pomo Nation

= 9

U.S. Attorney's Office

U.S. Coast Guard

U.S. Customs and Border Protection

spot, which she claims as rightly her own, but the attorney also told a D.C. federal judge he could offer "no assurances."= 2 Read more »

= 9 INTERNATIONAL TRADE

= A

WTO Members Angle For Investment Development Talks

As the World Trade Organization races to deliver concrete results at its ministerial summit next month, a group of 13 countries came forward Monday with a proposal to formally launch a new effort to use overseas investment as a tool for global development. Read more »

TAX

= 9

Convicted Tax Dodger Warns Justices Of Prosecutorial Abuse

Carlo Marinello, the convicted tax dodger whose petition to review a statute criminalizing the obstruction of federal tax laws was recently granted by the U.S. Supreme Court, told justices in a brief Wednesday that the government's "elastic interpretation" of the statute could call into question routine business decisions that Congress never intended to criminalize. Read more »

India Creates Task Force To Draft New Tax Legislation

The Indian government has announced the creation of a task force to draft a new tax framework that incorporates the country's economic needs while keeping other nations' systems in mind. Read more »

IMMIGRATION

U.S. Department of Homeland Security

U.S. Department of Justice

U.S. Department of Labor

U.S. Department of the Interior

U.S. Department of the Treasury

U.S. House of Representatives

U.S. Patent and Trademark Office

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U.S. Senate

U.S. Sentencing Commission

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U.S. Supreme Court

World Trade Organization

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= A Travel Ban Reports Should Stay Secret, Feds Tell 4th Circ.

= 9Government attorneys cited classified material and executive privilege Friday as they pressed the Fourth Circuit not to review two reports submitted to President Donald Trump and referenced in his latest version of the hotly contested travel ban focused primarily on Muslim-majority countries. Read more »

= 9

Enviros, Calif. Seek Quick Win On Trump's Border Wall Plans

The state of California and several environmental organizations challenging the Trump administration's plans to waive environmental laws so it can move forward with its border wall project have urged the Southern District of California to give them a quick win in their consolidated cases. Read more »

NATIVE AMERICAN

= 9

BIA Prevails In Spat With Calif. Group Seeking Tribe Status

A California federal judge Monday tossed a suit against the Bureau of Indian Affairs by members of the proposed Ukiah Valley Pomo Indian Tribe, saying the agency reasonably found that the group was only a part of the federally recognized Pinoleville Pomo Nation and therefore couldn't vote to organize as a separate tribe. Read more »

Net Neutrality Comment Process, Investigation Take Flak

Players on both sides of the net neutrality debate are reacting to suggestions that the Federal Communications Commission has mishandled millions of comments in its Restoring Internet Freedom proceeding, with a conservative think tank on Monday

suggesting that a New York attorney general investigation is "diversionary." [Read more »](#)

TELECOMMUNICATIONS

FCC Reform Would Threaten Lifeline Program, Clyburn Warns

A Democratic Federal Communications Commission member warned on Monday that changes to the commission's Lifeline subsidy program for phone and internet service will cut off low-income Americans from critical services and deprive them of a path to economic empowerment. [Read more »](#)

Net Neutrality Hype Overblown, Title I Advocates Say

= 9 Proponents of the Federal Communications Commission's planned vote to reclassify the internet as a Title I information service continued reacting to last week's draft order, with a former FCC commissioner saying Monday that the negative hype surrounding reversal of the Obama-era net neutrality protections is overstating harms to consumers. = 9 [Read more »](#)

= A

FCC Must Free Up More Licensed Spectrum, Think Tank Says

A Maryland free market think tank on Friday urged the Federal Communications Commission to free up licensed spectrum for fixed wireless service in order to increase broadband access in rural areas. [Read more](#)
= 2

WHITE COLLAR

DOJ Argues No Trump SoHo Hotel, No Emoluments Conflict

The Trump Organization's plans to walk away from a Manhattan luxury hotel further undermine an ethics group's allegations that the building, which bears President Donald

Trump's name, violates the Constitution's "emoluments" ban on influence-peddling financial dealings, the U.S. Department of Justice told a New York federal judge Friday. Read more »

PEOPLE

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White House Lawyer Returns To Cozen O'Connor

A Philadelphia lawyer and fixture of Pennsylvania Republican politics has returned to Cozen O'Connor after 10 months in the White House and will again lead the firm's government and regulatory practice, the firm announced Monday. = 9 Read more »

EXPERT ANALYSIS

= 9

Proposals For Reform Under A New CFPB

Once the dispute over appointment of the Consumer Financial Protection Bureau's new director is resolved, the first task for the new interim director will be to set a new and likely very different course for the bureau. Attorneys at WilmerHale discuss a variety of policy reforms the new director should implement. Read more »

Mueller's Options, Short Of Indictment

Suppose special counsel Robert Mueller's investigation unearths evidence that falls short of the legal standard to indict but would likely be of great interest to the public and/or relevant to congressional committees. If appropriate, Mueller has several potential paths to the disclosure of the grand jury's evidence, says Ronald Levine, head of Post & Schell PC's white collar defense group. Read more = 2

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A Potential New Hurdle For Foreign Investments

With the United States Foreign Investment Review Act recently introduced in the Senate, foreign investors, U.S. sellers and other concerned parties may soon be required to consider both the national security implications and the U.S. domestic economic impact of their proposed transactions, say attorneys with Morgan Lewis & Bockius LLP. [Read more »](#)

The State Of The Patent System: A Look At The Numbers

Patent lawsuits continue to decline in the U.S., as venue takes a dramatic shift. Additionally, Section 101 invalidation rates remain at frightful levels that beg for legislative intervention, says David Kappos, a partner at Cravath Swaine & Moore LLP and former director of the U.S. Patent and Trademark Office. [Read more »](#)

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= 9 Financial Institutions Must Invest In FATCA Compliance

The deadline for foreign financial institutions to sign up with the U.S. Internal Revenue Service's Foreign Account Tax Compliance Act registration system came and went last month. While deregulatory and tax reform efforts in Washington could eventually change FATCA enforcement, for the time being, failure to be in compliance can have serious implications, say attorneys with Burr & Forman LLP. [Read more »](#)

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Expiring Soon: Temporary BPA Warning Regs Under Prop 65

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With the holidays and end of the year in mind, Robert Falk and Michael Steel of Morrison & Foerster LLP outline what food and beverage manufacturers and sellers should know before

the temporary safe harbor warning for Bisphenol A exposures under California's Proposition 65 expires at the end of next month. [Read more »](#)

LEGAL INDUSTRY

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The 25 Law Firms Clients Say Provide The Most Value

= 9 A select few law firms stand out in the minds of clients as providing the most value for the dollar, according to a report released Monday, a feat that requires the firms to not only deliver quality legal services to clients but also contribute to their business success. [Read more »](#)

= 9

The Firms That Give The Best Client Service

Leading corporate counsel have named the 30 law firms that outperform all others in client service delivery regardless of size, practice offerings or location. Here are the top-ranked firms that enjoy 37 percent higher revenue growth and 33 percent higher client retention than the average law firm, according to a new report. [Read more »](#)

Cravath Sets Same Associate Bonus Bar As Last 2 Years

Cravath Swaine & Moore LLP announced year-end associate bonuses Monday in line with those it has doled out the past two years, ranging from \$15,000 to \$100,000, and within hours at least two law firms had already matched the trendsetter, according to internal memos. [Read more »](#)

Analysis

15 Minutes With Petco's General Counsel

A year ago, Alan Tse joined Petco Animal Supplies Inc. as its senior vice president, general counsel and corporate secretary.

Previously, he served as executive vice president, general counsel and corporate secretary for Churchill Downs, a company he said is most known for hosting the Kentucky Derby at its namesake racetrack in Louisville. [Read more »](#)

= 9 2 Firms Bolster Insurance Groups With Ex-Sedgwick Partners

United Kingdom-based professional services firm RPC and Chicago-based BatesCarey on Monday both announced partner hires from two different Sedgwick offices, a week after the troubled San Francisco-based firm told employees it would close early next year. [Read more »](#)

= A

Pregerson's Legacy At 9th Circuit Is A Promise Kept

The Ninth Circuit lost one of its most liberal judges when Harry Pregerson passed away Saturday at age 94, leaving a legacy of civic activism and highly principled court rulings that sometimes defied case law in favor of the judge's own moral compass, in keeping with a vow he'd made to the U.S. Senate during his confirmation hearing. [Read more »](#)

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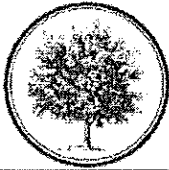
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THE BUCKEYE INSTITUTE

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In between the numerous "Giving Tuesday" emails you have likely received today, we hope you will take a minute to read Robert Alt's compelling piece in *Forbes*.

In the article, Robert argues that we need to change our laws in order to empower public-sector workers with the voting rights they deserve.

Who among us believes it is fair that these workers are being denied the right to vote and the ability to have a voice or a choice on which union represents them? Not your Buckeye Institute. We stand solidly in favor of **Worker Voting Rights** and believe workers deserve a voice and a choice in their representation.

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Buckeye President & CEO Robert Alt has been featured on more than 70 radio shows across the country in the past few months talking about Buckeye's Worker Voting Rights project, which is quickly gaining momentum, earning media attention, and catalyzing action.

As Robert describes in the Forbes piece in more detail (see below for the full article or [click through to Forbes directly](#)), the time has come and the time is right now for Worker Voting Rights.

= A

Forbes

It's Time For Public Sector Workers To Be Given A Voice And Choice

Forbes

By Robert Alt

November 27, 2017

Early next year, the Supreme Court will hear *Janus v. American Federation of State, County, and Municipal Employees, Council 31*. Mark Janus is a child support specialist at the Illinois Department of Healthcare and Family Service who objects to paying union fees, which are currently a condition of his employment. He argues that the compulsory fees force him to speak through his union in ways that violate his First Amendment rights.

If Mr. Janus prevails, he and other public-sector employees will be able to choose whether or not to pay union dues or fees without threat of being fired, which would be a tremendous victory for workers. However, even if Mr. Janus wins in court, public sector union members will still have no say regarding which union represents their bargaining unit.

Every morning, hardworking men and women in every state drink their coffee and diligently go to work on our behalf -- in our neighborhoods as public school teachers, home care workers, engineers, and in agencies protecting the environment. Unfortunately, while these civic-minded professionals go to work for us, the labor unions

that they must join in order to teach our children or serve our communities do not always work for them.

Once a public-sector union is certified, it remains the workers' representative -- potentially forever. In Ohio, for example, the Columbus Education Association has represented Columbus public school teachers since 1968 -- back when the Beatles were still together and before many of today's teachers were even born.

Heirloom unions inherited from the Nixon-era are depriving today's public workers and civil servants of any meaningful voice or choice in their workplace. Ninety-four percent of union workers have **never had the chance to vote for or against their unions** -- and still won't even if Janus succeeds in his case.

When a public-sector union fails to address employee complaints or mis spends union dues, there is no ballot to cast for change. Instead, public employees remain stuck with the hand-me-down unions that workers who wore bell-bottoms chose for them.

There is a solution.

With worker voting rights, public employees would have regular elections to encourage their unions to be more responsive to their members' interests. Worker voting rights gives union workers an opportunity to be heard, to voice their concerns to their union leaders, to better understand how their union dues are spent, and to choose for themselves whether to keep the union they have, vote their union out, or vote in a better union. Worker voting rights would incentivize union leaders to cultivate broader support among the workforce they represent and to be accountable to their rank-and-file members. Not surprisingly, 82% of unionized Americans **favor holding periodic votes on their union representation**.

Once-and-for-all unions that rarely -- if ever -- face re-election have no worry of being fired by their members for poor performance or disregarding members' concerns. In states that require workers to pay "fair share" fees as a condition of employment, union leadership failure has next to no consequences, because whether the union negotiates better working conditions for its members or not, whether it spends union dues wisely or not, whether it meets the needs of its members or not, there is almost nothing public employees can do to replace or remove the poorly performing union. Even if these public employees are dissatisfied with their representation, they have to continue paying their union dues or fair share fees, or else their employment can be legally terminated.

Public-sector unions and their insulated union officials know and count on this questionable practice of denying their members voting rights, allowing unions that are not taking care of their members to remain firmly entrenched regardless of their members' satisfaction. But state lawmakers can guarantee worker voting rights for public employees by providing for regular elections by law.

Unions have played a significant role in America's workforce for well over a century. But the interests of the unions themselves should never trump the interests of the hardworking men and women these unions represent. Our civil servants and public-sector employees deserve to have their voices heard and their choices matter -- they deserve worker voting rights.

Robert Alt is President & CEO of The Buckeye Institute in Columbus, Ohio.

= A

p.s. The Buckeye Institute is receiving gifts today as part of "**Giving Tuesday**" and invite you to consider supporting our work, which is transforming public policy at the state level. Check out our **appeal from last year** for explanation of this online phenomenon and background on how it started, then submit a generous donation to **your favorite policy organization** as you are able.

#GIVING TUESDAY

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Founded in 1989, The Buckeye Institute is an independent research and educational institution - a think tank - whose mission is to advance free-market public policy in the states.

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Thursday, November 30, 2017

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TOP NEWS

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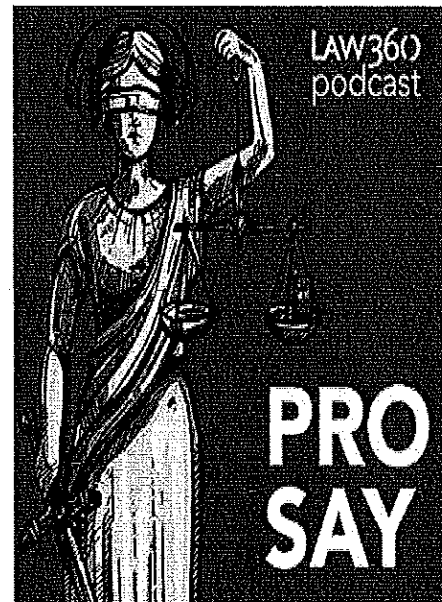
Trump's Judge Picks Proceed Despite 'Blue Slip' Tradition

President Donald Trump's picks for Fifth and Eighth Circuit vacancies — including Kyle Duncan, a lead attorney in the U.S. Supreme Court's Hobby Lobby case — defended their records during a Senate hearing Wednesday as the Judiciary Committee prepares to break with its tradition of deferring to opposition from nominees' home state senators. [Read more »](#)

= 9

SEC Tells High Court ALJs Are Officers, Not Employees

The Securities and Exchange Commission is urging the Supreme Court to resolve a circuit split over whether the hiring process for its



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LAW FIRMS
[Allen & Overy](#)

administrative law judges violates the Constitution's appointments clause, saying it now sees the in-house judges as officers of the United States who should be subject to the provision, and not merely employees. Read more » = 9

Trump Sparks Outcry With Anti-Muslim Videos On Twitter

President Donald Trump on Wednesday retweeted three inflammatory videos allegedly depicting Muslims that had been posted by a leader of a far-right party, earning him a swift rebuke from the British prime minister and potentially handing his opponents in the travel ban cases fresh ammunition. Read more = 2

= 9

Fla. High Court Rejects Gov.'s Bid To DQ Justice

The Florida Supreme Court on Wednesday denied Gov. Rick Scott's bid to disqualify Justice Barbara Pariente from hearing the challenge to his plan to appoint the next three Supreme Court justices on his last day in office. Read more »

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Analysis

5 Takeaways From The 'New' FCPA Corporate Charging Policy

= 9 A new policy guiding when corporations can avoid criminal charges under the Foreign Corrupt Practices Act for bribing foreign officials formalizes what had been a U.S. Department of Justice experiment and gives some amount of certainty for companies, experts say. Read more »

DOJ Outlines Protections For Cos. Aiding FCPA Investigations

Deputy Attorney General Rod Rosenstein on Wednesday announced a new U.S. Department of Justice enforcement policy for the Foreign Corrupt Practices Act aimed at

Arnold & Porter Kaye Scholer

Bona Law PC

Cadwalader Wickersham

Cleary Gottlieb

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Clifford Chance

Cravath Swaine

Curtin & Heefner

Davis Polk

Debevoise & Plimpton

Dechert

Del Sole Cavanaugh Stroyd

Dorsey & Whitney

Duane Morris

Edelson PC

Faegre Baker

Fox Rothschild

Gibson Dunn

Goodwin

Hogan Lovells

Hughes Hubbard

Irell & Manella

Jenner & Block

Kellogg Hansen

Kirkland & Ellis

Linklaters

Littler Mendelson

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Manatt Phelps

Milbank Tweed

Morrison & Foerster

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Motley Rice

Norton Rose Fulbright

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Outten & Golden

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incentivizing voluntary disclosures of corporate wrongdoing. Read more »

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BANKING & SECURITIES

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Senator Quizzes SEC Nominees On Activism, Pay, Buybacks

Wisconsin Democratic Sen. Tammy Baldwin threatened to hold up the nominations of two nominees for the U.S. Securities and Exchange Commission on Wednesday unless they field questions on executive pay and share buybacks that companies execute under pressure from activist investors. Read more »

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ENERGY & ENVIRONMENTAL

Dem Senator Compares Trump Enviro Pick To Caligula's Horse

A U.S. Senate panel on Wednesday narrowly advanced President Donald Trump's controversial pick to lead the White House's Council on Environmental Quality in a party-line vote, but not before one Democratic senator said her nomination recalls the tale of a mad Roman emperor and his favorite horse. Read more »

HEALTH & LIFE SCIENCES

HHS Pick Bashes ACA, Sweats Drug Prices On Capitol Hill

President Donald Trump's pick to lead the U.S. Department of Health and Human Services testified Wednesday on Capitol Hill, disparaging the Affordable Care Act and struggling to defend drug pricing decisions during his time at Eli Lilly & Co. Read more »

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Paul Hastings

Paul Weiss

Proskauer Rose

= 9

Ropes & Gray

Sedgwick LLP

Simpson Thacher

Skadden

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Steinman & Rodgers

Troutman Sanders

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Venable LLP

Weil Gotshal

Wexler Wallace

Wiley Rein

Willkie Farr

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Winston & Strawn

COMPANIES

AT&T Inc.

= 9

Allegis Group

Altman Weil Inc.

Amazon.com Inc.

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American Center for Law and Justice

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American Civil Liberties Union

American Federation of State, County and Municipal Employees

CarMax Group

Cato Institute

Eli Lilly and Company

Equifax Inc.

Hobby Lobby Stores

Inter IKEA Systems BV

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AGs Back Pa.'s Suit Over Contraception Mandate Exemptions = 9

A coalition of attorneys general from states including Massachusetts, California and New York on Tuesday voiced support for an effort by their counterpart in Pennsylvania to block regulations recently announced by the Trump administration dialing back the Affordable Care Act's contraception mandate by allowing employers to claim religious or moral objections. Read more »

IP & TECHNOLOGY

USPTO Nominee Vague On How Fair AIA Is To Patent Owners

Irell & Manella LLP managing partner Andrei Iancu, the nominee to lead the U.S. Patent and Trademark Office, told senators at his confirmation hearing Wednesday that he will strive to bring "stability and reliability" to the patent system and seek to improve America Invents Act reviews. Read more »

= 9 EU Details Standard-Essential Patents Policy In IP Package

The European Commission unveiled a licensing policy for standard-essential patents on Wednesday as part of new guidelines it laid out for intellectual property rights, in an effort to help create a "fair and balanced system" that benefits both product manufacturers and patent holders. Read more = 2

MEDIA & ENTERTAINMENT

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USPTO Advisory Boards Worried About Shared Services Plan

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Advisory committees for the U.S. Patent and Trademark Office sounded the alarm Tuesday over the U.S. Department of Commerce's controversial shared services program, saying

Murray Energy Corp.

NBCUniversal Inc.

National Immigration Law Center

National Right to Work Legal
Defense Foundation

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New York Times Co.

Odebrecht SA

Rite Aid Corporation

Service Employees International
Union

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The Southern Company Inc.

= 9

Twitter Inc.

U.S. Chamber of Commerce

Wells Fargo & Co.

Zeughauser Group LLC

GOVERNMENT AGENCIES

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Congressional Research Service

Consumer Financial Protection
Bureau

= 9

Council on Environmental Quality

Department of Commerce

European Commission

European Union

Executive Office of the President

Federal Aviation Administration

Federal Bureau of Prisons

Federal Deposit Insurance Corp.

Federal Trade Commission

Fish and Wildlife Service

Food and Drug Administration

Government Accountability Office

Internal Revenue Service

National Labor Relations Board

Pennsylvania Supreme Court

the nation's patent and trademark systems will be harmed if the USPTO is required to participate. Read more »

TRANSPORTATION & INFRASTRUCTURE

Commercial Drone Users Push For Fewer FAA Restrictions

= 9 Drone advocates urged Congress on Wednesday to lean on the Federal Aviation Administration to loosen restrictions on the use of commercial drones in U.S. airspace or risk U.S. industry falling behind foreign rivals, finding a receptive audience from lawmakers who simultaneously decried "idiot" hobbyists for acting unsafely. Read more »

EMPLOYMENT

Pa. Justices To Weigh Pittsburgh Sick Leave, Security Laws

The Pennsylvania Supreme Court on Wednesday agreed to hear a set of appeals over the city of Pittsburgh's authority under state law to enact ordinances requiring employers to provide paid sick leave to their workers and mandating security training and procedures in certain commercial buildings and public spaces. Read more »

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After Inquiry, NLRB's Emanuel Discloses More Ex-Clients

Former Littler Mendelson PC shareholder and recent National Labor Relations Board addition William Emanuel has previously represented some of the largest consumer corporations and banks in the country — from Amazon.com to JPMorgan and Wells Fargo — many of which were previously undisclosed during his nomination, according to a list of clients released Tuesday. Read more »

Ill. Worker Blasts Public Sector Union Fees At High Court

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Securities and Exchange Commission

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Serious Fraud Office

U.S. Army

U.S. Department of Health and Human Services

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U.S. Department of Homeland Security

U.S. Department of Justice

U.S. Department of Labor

U.S. Department of the Treasury

U.S. Environmental Protection Agency

U.S. House of Representatives

U.S. Office of Personnel Management

U.S. Patent and Trademark Office

U.S. Senate

U.S. Sentencing Commission

U.S. Supreme Court

United States District Court for the Eastern District of Pennsylvania

An Illinois Department of Healthcare and Family Services worker urged the U.S. Supreme Court on Wednesday to overturn a 1977 ruling that affirmed the right of unions to extract fees from public sector workers, calling the ruling "offensive to the First Amendment." [Read more »](#)

= 9 COMPETITION

= 9

Analysis

DOJ Plan To Speed Merger Reviews Gets Skeptical Response

The U.S. Department of Justice Antitrust Division's new leadership has been talking about plans to tackle a steady rise in the length of time it takes to complete merger reviews, but antitrust attorneys tell Law360 more can be done. [Read more »](#)

= 9 CONSUMER PROTECTION

= 9

Analysis

Focus Turns To Mulvaney's Impact At The CFPB

With a federal judge ruling Tuesday that Office of Management and Budget Director Mick Mulvaney could take on the role of acting Consumer Financial Protection Bureau director, attention has turned to what Mulvaney can do in his likely limited time atop the federal watchdog. [Read more »](#)

= 9

Analysis

With Wave Of Suits, Chicago Turns Focus To Residents' Rights

The city of Chicago is making an effort to bring more litigation on behalf of its residents against private companies, including Equifax and Uber over recently reported data breaches, part of a push under its new corporation counsel that could use the city's stringent consumer protection ordinance to reap significant spoils

for the cash-strapped government. Read more »

TAX

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Ex-Rep. Reynolds Loses New-Trial Bid In Tax-Filing Case

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Former U.S. Congressman Melvin Reynolds will appear for sentencing in March after an Illinois federal judge on Wednesday declined to retry him on four counts of failing to file federal income tax returns on more than \$400,000, saying he found enough evidence during trial to convict. Read more »

GOP Senators Unite To Kickstart Debate On Tax Cut Bill

The U.S. Senate is set to officially begin discussing a \$1.4 trillion tax cut bill after Republicans in the chamber banded together to overcome a procedural hurdle late Wednesday to get the wide-reaching legislation on the floor. Read more »

= 9

Analysis

= A Endowment Tax Plan Seen As GOP Levy On Liberal Schools

Congressional Republicans have proposed taxing the endowments of some universities, and while the provision may not curb access to higher education as some have warned, it can be seen as a shot across the bow by the GOP against perceived liberal-leaning educational institutions. Read more »

IRS Proposes Int'l Tax Rules For Partnership Audit Regime

The U.S. Treasury Department on Wednesday proposed new regulations that it said were designed to prevent collecting tax more than once under the centralized partnership audit regime that will take effect in January, from partnerships that have tax withholding

requirements on payments to foreign partners.
[Read more »](#)

IMMIGRATION

= 9

Sen. Wants Review Of Visa Program Following NYC Attack

Senate Judiciary Chairman Chuck Grassley, R-Iowa, urged the U.S. State Department on Monday to conduct a thorough review of the diversity immigrant visa program, following reports that a man suspected of killing eight people in New York City last month entered the U.S. on such a visa. [Read more »](#)

Feds Can't Escape Md. DACA Suit, Advocates Say

Immigration advocacy groups on Tuesday rebuffed the federal government's bid to nix a lawsuit in Maryland federal court over the Deferred Action for Childhood Arrivals program, arguing that the government's decision to revoke the program via executive order in September violates federal law and is unconstitutional. [Read more »](#)

= 9

Mass. Tech Group Asks 4th Circ. To Keep Travel Ban Blocked

An association of Massachusetts technology companies on Tuesday voiced support for immigrant organizations urging the Fourth Circuit to keep blocked the latest iteration of the Trump administration's travel ban, which the association said could wreak havoc on its industry if allowed to take effect. [Read more »](#)

EXPERT ANALYSIS

Examining End Of EPA's 'Sue And Settle' Practice = 9

With the stated intention of promoting transparency and public participation in the process of resolving lawsuits brought against the U.S. Environmental Protection Agency,

Administrator Scott Pruitt recently issued a directive to end the "sue and settle" practices within the agency. But whether the directive will provide relief for the EPA from the policy is debatable, says Maureen Mitchell of Fox Rothschild LLP. [Read more »](#)

Creditors Beware: New, Simplified Ch. 13 Comes At A Price

= 9 Changes to the federal bankruptcy rules taking effect on Dec. 1 will likely result in Chapter 13 and other cases moving more swiftly toward confirmation, but this efficiency could be at the expense of preoccupied or otherwise lackadaisical creditors, say attorneys with Troutman Sanders LLP. = 9 [Read more »](#)

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Anti-Corruption In Mexico: Reasons For Cautious Optimism

Implementation of Mexico's anti-corruption enforcement regime has suffered a series of setbacks and delays. However, the recent resignation of Mexico's attorney general signals a potential victory for anti-corruption activists in their demands for a truly independent prosecutor — a central pillar of Mexico's anti-corruption reform efforts, say attorneys with Ropes & Gray LLP. = A [Read more ½ B](#)

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Series

Judging A Book: Saris Reviews 'Locking Up Our Own'

Having just completed a six-year term as chair of the U.S. Sentencing Commission, I read Yale Law School professor James Forman's new book, "Locking Up Our Own: Crime and Punishment in Black America," with particular interest, says Judge Patti Saris, chief judge for the U.S. District Court for the District of Massachusetts. [Read more »](#)

LEGAL INDUSTRY

Analysis

How Law Firms Can Avoid A Merger Disaster

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As law firms look to grow and compete in an increasingly tough legal market through combinations, there are those who will choose poorly in the race to find a partner and end up unhappily married. Here, Law360 looks at a few characteristics of a doomed law firm merger. Read more »

Duane Morris Nabs Sedgwick's Ex-Employment Team In SF

Duane Morris LLP has hired the employment practice group from the soon-to-be-defunct Sedgwick LLP to join its San Francisco office, in its first round of potential ex-Sedgwick lateral hires, Duane Morris said Tuesday. Read more ½ B

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3 UK-Based Firms Match Cravath Scale For US Bonuses

Three London-based global law firms revealed Wednesday that associates in their U.S. offices would receive year-end bonuses ranging from \$15,000 to \$100,000, in keeping with the scale established in previous years and maintained this Monday by Cravath Swaine & Moore LLP. Read more »

As GCs Grow In Stature, Bonuses Are On The Rise

General counsel and chief legal officers saw their total compensation grow by almost 10 percent between 2015 and 2016 with bonuses accounting for much of the increase, reflecting the rising importance of legal department leaders, according to a new study released Wednesday. Read more »

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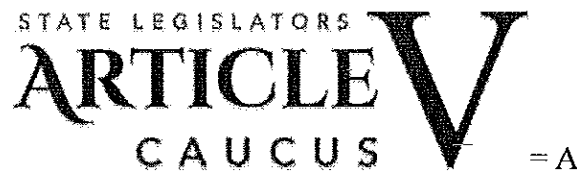
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Newsletter - Edition 59 . December 2017

Providing Article V / Federalism News and Scholarly Resources Since 2013

This month...

- **Wisc. Approves 28th BBA-focused Article V Application**
- **Press Coverage of Wisc.'s Action: Wide and Varied**
- **BBA Endorsed by California Gov. Jerry Brown**
- **Guldenschuh End-of-Year Report Tracks Article V Progress**
- **Article V: 'Necessary' to Fix America's Problems**
- **More New Article V-related Papers & Articles of Note**
- **NY Rejects Convention to Amend State Constitution**

- **Article V Advocate Mark Levin to Host Show on Fox News**

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Wisconsin Approves 28th BBA-focused Article V Application –

It was four years in the making. It did not happen easily. Opponents repeatedly used scare tactics and misinformation. But on November 7 it didn't matter. A majority of Wisconsin Senators had studied Article V and become convinced it was the right tool to use to address pressing national fiscal and federalism issues.

= A The Wisconsin Assembly had approved two Article V-related resolutions and one related bill earlier in the year. Anti-Article V factions were bombarding Wisconsin legislators with demonstrations, e-mails and letters, so the Senate postponed acting while they studied the issues in more detail. Just before the vote Gov. Scott Walker tweeted that he supports the call for a convention.

During the 2½ hour televised November 7 debates on the measures, opponents drew on a litany of orchestrated reasons why an Article V convention was not safe ("it will runaway", "our Bill of Rights will be destroyed", "We don't know what the rules will be", etc.). A couple opposing Senators virtually shrieked their venomous uninformed disparagements.

Meanwhile Senators David Craig and Chris Kapenga responded to the outlandish criticisms with moderated voices on behalf of the majority. They talked about the devastating consequences of continued unsustainable patterns of federal deficit spending and national debt. Kapenga also referenced the broad public support for a balanced budget amendment. *"People understand you can't run your household at a deficit forever,"* he said. Craig described the debt as the chief threat to national security.

When the votes were taken, all three measures were approved by a 19 to 14 margin. Assembly Joint Res 20 expressed support for a set of rules that require delegates to an Article V convention stick to the purpose for which the states called the convention. Assembly Joint Res 21 is the formal application from Wisconsin for a BBA-focused Article V convention, and Assembly Bill 165 established criteria for appointing delegates to an Article V convention.

With the action in Wisconsin, there are now 28 current live applications (out of the 34 needed) for a BBA-focused Article V convention.

Attorney and recognized authority on the Article V movement, David Guldenschuh, reacted to the passage of AJR 21 by saying, *"Today, the Article V Balanced Budget Amendment movement took another major step toward restoring fiscal responsibility in our country and saving the American dream for our grandchildren."*

Tim Dake, of the Wisconsin Grandsons of Liberty, stated, *"It is extremely gratifying that our Wisconsin state legislature has recognized the fiscal irresponsibility of the federal government and has done their part to save our nation from imminent economic ruin. I strongly commend and thank those state legislators who voted in favor of the resolution for their leadership and their fortitude."*

Press Coverage of Wisconsin's Action was Wide and Varied –

As was expected, Wisconsin publications immediately covered the Article V-related actions of the state's legislature. Groups that have organized to oppose Article V and a BBA are well-funded, and they have influenced many writers. In spite of the influence by those groups, most of the follow-up reports were objective and accurate.

Because Todd Richmond of the Associated Press covered the proceedings, newspapers as far away as Washington, DC, Miami, and San Francisco carried the story. Happily, Richmond's reporting was again objective and accurate. Typical of how these distant newspapers handled the AP report is this [US News & World Report](#).

Even [Esquire Magazine](#) (an outrageously inaccurate piece) and the MSNBC [Rachel Maddow Show](#) weighed-in on the development in Wisconsin. While the Maddow report started out with reasonably accurate information, it immediately turned to statements like *"most proponents are on the far-right fringe. The religious right movement, in particular, has pushed aggressively for a convention."* Then it launched into quotes from so-called experts who warned a convention would be "putting the whole Constitution up for grabs."

BBA Endorsed by California Gov. Jerry Brown –

An article in **The Washington Post**, Democratic Governor Jerry Brown was quoted as saying *"A constitutional convention to propose an amendment to balance the budget is unprecedented, but so is the political paralysis that prevents necessary action."*

In the spirit of candor, readers should be aware that the Post's report was published on January 9, 1979. Brown's full-throated, unqualified endorsement of a state-led Article V convention leading to a federal BBA can be read [HERE](#). At the time of Brown's remarks 22 states had adopted resolutions calling for a BBA-focused Article V convention. Today 28 state legislatures have done so.

While Brown's BBA endorsement is many years old, Democratic US Senator Joe Manchin (W.Va.) has also spoken out about the need for a federal BBA. The Martinsburg, WV **Journal** reports that at an October 27 community town hall Manchin told the audience that, *"The country's biggest threat, is our own profligate spending... soon [to be] measured in 'trillions' rather than billions."*

"We are going to add \$666 billion more debt this year," Manchin said. "By 2027, we're predicting we will be \$31 trillion in debt, if we don't change our ways."

Manchin reportedly suggested that America needs to enact a constitutional balanced budget Amendment to force the federal government to start balancing its own checkbook. *"No matter what they (the federal government) want to do, at the end of the day we've got to make sure they balance the budget at the end of the year,"* Manchin said. Read the Journal report [HERE](#).

Guldenschuh End-of-Year Report Tracks Article V Progress –

Throughout the last couple of years Georgia attorney David Guldenschuh has produced what he calls ***The Article V Convention Legislative Progress Report***. With 2017 state legislative sessions now concluded, Guldenschuh has produced his preliminary end-of-the-year report.

This year he has tracked a total of about 180 pieces of Article V legislation in 40 states. His narrative report, available [HERE](#), also offers his personal take on the recent Phoenix BBA Planning Convention. He also attached the report that he and the other two Georgia delegates to the Phoenix convention submitted to the Georgia legislature. It can be read [HERE](#).

The chart version of the Guldenschuh report takes several factors into consideration and suggests that the [BBA Task Force](#) campaign with 28 state applications is now at 83% of its goal... and the [Convention of States Project](#) with its 12 state applications is at 47% of its goal. The chart, available [HERE](#), also tracks the progress of five other Article V efforts.

Article V: 'Necessary' to Fix America's Problems = 2

On November 10 Townhall published an excellent column entitled ***A Convention of the States Is Necessary to Fix America's Most Difficult Problems***. The author, Chris Talgo of The Heartland Institute, is a former U.S. History teacher.

After ticking off a list of federal problems Talgo says, *"Career politicians have turned Washington, DC into a cesspool of corruption and malfeasance."* He goes on to point out *"It is far-fetched to believe at this point Congress would ever propose an amendment to address the nation's most vexing problems. Amendments that would require a balanced budget or institute term limits seem unlikely to originate from those who believe they would personally be harmed by such proposals. Hence, there is a great need for a convention of the states to propose such amendments."*

While most Americans support common-sense solutions such as a balanced budget amendment or term limits, Talgo warns, *"[A] convention of the states has become a thorny topic due to a concerted misinformation campaign by those opposed to this process... As momentum toward a convention of the states increases, so does fearmongering against it."* Read the entire column [HERE](#).

More New Article V-related Papers & Articles of Note –

--- On November 6 **The Heartland Institute** issued a brief paper entitled ***"State Lawmakers Ready to Follow Up on Amendment Convention Meeting"***? 6 a quick overview of the Phoenix BBA-Planning Convention by Michael McGrady. Read it [HERE](#).

--- The November 28 edition of **Investor's Business Daily** carried a thoughtful commentary by Linsdey Stroud, another Heartland Institute staffer. ***"How Millennials Can Help Reduce the Federal Deficit"*** opens with a 1936 quote by former president Herbert Hoover, *"Blessed are the young, for they shall*

inherit the national debt." Read Ms. Stroud's article [HERE](#).

--- On the occasion of the 250th anniversary of ***Letters from a Farmer in Pennsylvania***, Karla Jones of **The American Legislative Exchange Council** published an excellent review of Professor Rob Natelson's five-part profile of the twelve anonymously-penned op-ed 'Letters' author, John Dickinson, one of federalism's early champions. Ms. Jones' review can be read [HERE](#).

The Natelson series, first published by the **Washington Post's** blog, The Volokh Conspiracy, can be read [HERE](#).

--- **The Hill.com** published a Natelson op-ed entitled ***"Let's not waste time reviving the zombie Equal Rights Amendment"***... suggesting that those who want to focus on long-forgotten Constitutional amendment proposals could instead *"campaign to complete ratification of James Madison's original first amendment, which Congress proposed in 1789 as part of the Bill of Rights. Although the requisite number of states have never approved it, unlike the ERA, the original first amendment has no ratification deadline."* Read his op-ed [HERE](#).

--- On November 28 **Ballotpedia.com** reported that during the Nov. 7 election voters (for the second time in a century) approved all 17 state constitutional amendments proposed to them on various state ballots... clear evidence that voters do not fear constitutional amendments. Read the report [HERE](#).

--- Also on November 28 **FreedomWorks** issued an "Issue Analysis" on the

need for a balanced budget amendment to the US Constitution to inject fiscal responsibility at the federal level. Sarah Anderson, author of the report, stressed that *"At the state level, budgets are largely balanced across the board, in traditionally conservative and traditionally liberal states alike. According to the National Council of State Legislatures, forty-nine of the fifty states have effectively balanced budgets."*

She suggests that *"The extent to which these statutory and constitutional provisions truly require that state governments not spend more than they bring in is debated. Even still, just states' efforts to do so go far beyond the federal government's disregard of its problematic patterns of excessive spending."*

Speaking on behalf of FreedomWorks, Ms. Anderson says, *"We are supportive of the movement for a budget amendment, an ideal component of the larger fight to hold the federal government to fiscally sound, responsible practices."* Read her report [HERE](#).

NY Rejects Convention to Amend State Constitution –

On Nov. 7 New York voters strongly rejected a measure which would have scheduled a 2019 convention to consider amendments to the NY state constitution. The question about holding an amendments convention is automatically put on the NY ballot every 20 years. The last convention was held in 1967.

A few days after the Nov. 7 election Nicole Gelinas of the **New York Post** wrote that the defeat was due to strong campaigning by government employee unions who were worried that state constitutional changes might imperil their constitutionally-guaranteed pensions.

"But", she says, "public-sector workers should worry less about words and more about numbers. Whenever anyone writes that public-sector pensions are unsustainable, New York union leaders have a rejoinder: The constitution guarantees them."

She pointed out that "An inflexible constitutional provision stands in the way of small changes that could prevent bigger disaster years or decades later. Government workers may feel more secure after last week's vote. But the constitution isn't made of money."
Read her piece [HERE](#).

Article V Advocate Mark Levin to Host Show on Fox News –

The Federalist Papers Project has reported that popular radio talk show host Mark Levin will soon be hosting his own TV show on Fox News. *"Life, Liberty & Levin"* will begin in February, airing at 10 PM on Sunday nights.

= ALevin has been closely affiliated with the Convention of States Project (CoSP) since its beginning. It is believed that CoSP and other Article V efforts will receive more exposure as a result of Levin's new show. Read the Federalist story [HERE](#).

CoSP has also released a new 5½ minute video about the proposed Constitutional amendments proposed by that group. The video features a brief address by former US Senator Jim DeMint and was produced in conjunction with Prager University. See it [HERE](#).

A Final Point of Interest...

The idea that terms should be limited for members of the US Congress date back to 1777:

***"...no person shall be capable of being delegate [member of Congress]
= Afor more than three years, in any term of six years..."***

Ironically, these words appear in Article V
of the Articles of Confederation and Perpetual Union.
Today two groups (US Term Limits and the Convention of States Project)
are seeking to use Article V of the 1787 Constitution
to impose Congressional term limits.

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Newsletter Editor - Stuart MacPhail (CitizenAmend@aol.com)

Official Web Site: www.ArticleVCaucus.com

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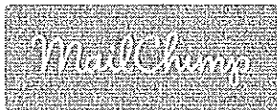
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The Failures of the Educational Safety Net

One of the most important problems facing the education system in many states is that the current education safety net leaves most at-risk youth with a subpar education. Standard safety net elements traditionally include continuation schools, opportunity schools, community day schools, juvenile detention centers, and blended online-learning programs. Students in these alternative education settings are more likely to be minorities and live in low-income households than students in traditional classroom settings.

In a new Heartland *Policy Brief* titled "[Strengthening America's 2s Educational Safety Net](#)," Carl Brodt and Alan Bonsteel present some important and grim facts about the current state of the nation's education system, including that 20 percent of public school students fail to graduate high school on time and 10 percent of high school students enroll in a corrective or supplemental program.

Brodt and Bonsteel, the treasurer and president of California Parents for Educational Choice, respectively, primarily drew their assessment of alternative education and their recommendations from extensive research on the safety nets in California. Two-thirds of California students enrolled in a safety net are in that situation because they have fallen far behind their peers in attaining the required academic credits. The second-most-cited reason for being enrolled in a safety net program (16 percent) is extreme behavioral problems. Of the students enrolled in these safety net programs, only about 25 percent earn a high school degree. This low graduation rate is especially lamentable given the pitiful academic

requirements these students must meet. For example, California requires continuation schools to offer only 15 hours of classes per week, and there are often no school or district academic standards for course credits.

"Emphasis in the safety net tends to be on process—attendance, punctuality, and productivity—and not academic content and achievement," the authors wrote, arguing that these misplaced priorities are partly to blame for many of the system's failings.

Brodts and Bonsteel recommend several short-term and long-term actions should be adopted by state legislators across the country to create educational safety nets that are successful:

1. Standardize what constitutes a "safety net" and a "child at-risk," closely track at-risk children in states' longitudinal databases, and define knowledge requirements for graduation.
2. Expand independent school options, including by providing greater access to charter schools and taxpayer-funded scholarships for students to use at private schools.
3. Expand parental choice, which includes choice within the safety net, by creating vouchers, education saving accounts, and tax-credit scholarships.
4. Reduce the need for a safety net by motivating students with alternative approaches and experimental programs.

"If we are willing to act boldly to implement the recommendations described above, we can transform and revolutionize how we work with children who are floundering in school," Brodts and Bonsteel wrote in their conclusion. "Over the next two decades we could empty many of our prisons of young people who have been poorly served by our dysfunctional educational safety net."

What We're Working On

Energy & Environment

Will Happer Interview: Focused Civil Dialogue on Global Warming

This is a reprint of an absolutely remarkable interview, conducted by TheBestSchools.org, with physicist William Happer, Ph.D., one of the most prestigious climate scientists in the world. Dr. Happer is the Cyrus Fogg Brackett Professor of Physics (emeritus) at Princeton University, former director of the Office of Energy Research, former director of research at the U.S. Department of Energy, and co-founder of Magnetic Imaging Technologies. He is also cofounder and chairman of the CO2 Coalition. The interview was conducted in December 2016.

Education

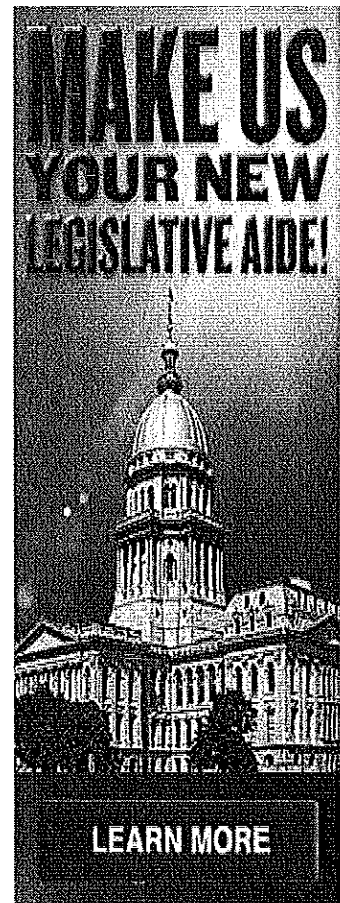
Research & Commentary: California Should Empower Parents with ESAs

In this *Research & Commentary*, Policy Analyst Tim Benson discusses a new report from Vicki Alger of the Independent Institute, *Customized Learning in California*, which lays out how the Golden State can help to improve outcomes for its K–12 students by implementing an education savings account (ESA) program. As Alger points out, funding for California's \$66 billion K–12 public education system takes up almost 43 percent of the state budget, costing roughly \$12,000 per pupil. Yet, despite all these resources and the amount of money required to educate each child, fewer than three out of 10 students are being taught to a proficient level in reading and mathematics. Alger concludes, "ESAs are popular, easy to use, fiscally responsible, and constitutional. Best of all, they empower parents to choose how, not just where, their children are educated, which customizes learning to degrees no one-size-fits-all system could ever match—no matter how lavishly funded."

Budget & Tax

Research & Commentary: Ohio Looks to Ensure Eligibility and Limit SNAP Fraud

In this *Research & Commentary*, Senior Policy Analyst Matthew Glans examines a new bill in Ohio that would require state officials to conduct quarterly eligibility checks on food stamp recipients, using several state and federal databases. "Placing a greater emphasis on strong eligibility standards and limiting fraud is an important first step toward ensuring Ohio's



POLICY NEWSPAPER

SNAP programs remain viable for those truly in need," Glans wrote.

Health Care

Research & Commentary: Missouri Should Expand Direct Primary Access to Medicaid Patients

In this *Research & Commentary*, Charles Katebi examines direct primary care and a proposal in Missouri that would expand direct primary care to patients on Medicaid. "Medicaid needs DPC now more than ever. After years of delivering poor outcomes at increasing costs, Missouri should allow Medicaid enrollees to access quality health care at a price Missouri taxpayers can afford," wrote Katebi.

From Our Free-Market Friends

Discount Christmas Sales Remain Illegal in Idaho

Wayne Hoffman, CEO of the Idaho Freedom Foundation, recently argued a Depression-era law in Idaho that prohibits retailers from offering discounts on items should be repealed. According to Hoffman, the Gem State's 1939 law requires retail prices to be marked up at least six percent to cover the cost of doing business. Sellers who offer steep discounts on products do so with the risk of being fined \$500 for each offense and imprisoned for up to six months. Hoffman contends these type of laws are anti-competitive and detrimental to consumers and sellers.



In the December issue of *Budget & Tax News*, Brandi Wielgopolski reports on a group of taxpayers who have begun collecting signatures for a ballot campaign to repeal California's gas excise tax hike. The tax hike, Senate Bill 1, was signed into law back in April. Former San Diego City Council member Carl DeMaio is spearheading this campaign, which will have to collect 587,407 valid signature to be on the November 2018 ballot.

Environment & Climate

News

School Reform News

Health Care News



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Tuesday, December 5, 2017



TOP NEWS

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High Court Lets Third Version Of Travel Ban Take Effect

The U.S. Supreme Court on Monday allowed President Donald Trump's third travel ban to take effect for the time being, lifting blocks against the ban while the appeals process over the issue plays out. [Read more »](#)

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Senate Advances Trump's Homeland Security Secretary Pick

The U.S. Senate voted to advance President Donald Trump's pick for his second Homeland Security secretary Monday, setting former DHS chief of staff Kirstjen Nielsen up for a final vote later this week. [Read more »](#)

Federal Tax Bills 'Fraud,' May Be Illegal: Dem Governors



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= 9

LAW FIRMS

Two Democratic governors and a governor-elect, from three populous states that voted for Hillary Clinton in the 2016 presidential election, excoriated Republican tax bills that have passed the House and Senate, saying their residents would be "devastated" and hinting at legal action. [Read more »](#)

Analysis

Renewable Cos.-Eye Damage Control As Tax Plan Advances = 9

The tax bill passed by the U.S. Senate on Saturday ratchets up anxieties for a renewable energy sector already concerned by the tax legislation that cleared the House last month, setting the stage for clean energy advocates to push for major rewrites during the reconciliation process. Here's a review of the energy impacts of both bills, as well as a preview of what the biggest energy-related fights will be as lawmakers attempt to craft unified legislation. = 9 [Read more »](#)

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Analysis

= A Targeted Bill Could Bring First Broad Changes To Dodd-Frank

A Senate panel on Tuesday is set to mark up bipartisan legislation that would ease certain Dodd-Frank rules for community banks and shrink the number of big banks subject to tougher supervision, marking the first legislative effort to roll back post-financial crisis rules that has a potential path to success. [Read more »](#)

BANKING & SECURITIES

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NYSE Seeks To Lower Required No. Of Investors For SPACs

The U.S. Securities and Exchange Commission has requested public comment on a New York Stock Exchange proposal to ease rules on special-purpose acquisition

Adams and Reese

Akin Gump

Allen & Overy

Altshuler Berzon

Becker & Poliakoff

Bradley Arant

Bramnick Rodriguez

Bryan Cave

Cadwalader Wickersham

Capehart Scatchard

Cary Kane

Cleary Gottlieb

= A

Clifford Chance

Covington & Burling

Cravath Swaine

Davis Polk

Davis Wright Tremaine

Debevoise & Plimpton

Dechert

Doar Rieck

= 9

Duane Morris

Earthjustice

FisherBroyles

Fox Rothschild

Freshfields

Fried Frank

Gibbons PC

Gibson Dunn

= 9

Greenbaum Rowe

Hogan Lovells

Jacob & Chiarello

= 9

Jones Day

King & Spalding

Kirkland & Ellis

Linklaters

companies, which include halving the minimum number of investors and adding a capital requirement to exempt SPACs from penny-stock rules. Read more »

ENERGY & ENVIRONMENTAL

= 9

Trump Shrinks Utah National Monuments By Millions Of Acres

President Donald Trump on Monday cut millions of acres from Bears Ears and Grand Staircase-Escalante national monuments, claiming he was rectifying "abuses of the Antiquities Act" by prior administrations and prompting a lawsuit by environmental groups who said the president overstepped his authority. Read more »

Enviro Group Sues EPA For 'Stonewalling' On Pruitt Speeches

= 9 An environmental group filed suit against the U.S. Environmental Protection Agency on Monday accusing it of breaching a deadline to hand over copies of speeches given by Administrator Scott Pruitt, arguing that the government's inaction violated public records law. = 9 Read more »

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Enviros Sue EPA To Administer Smog Reduction Rules

A group of health and environmental organizations filed suit Monday in California federal court, seeking an order requiring Environmental Protection Agency administrator Scott Pruitt to designate areas of the U.S. subject to smog reduction requirements under 2015 regulations issued by the agency. Read more »

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NJ Panel Advances Bill To Set Aside VW Settlement Funds

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McElroy Deutsch
McGuireWoods
Milbank Tweed
Norton Rose Fulbright
Orrick Herrington
Paul Weiss

= 9

Proskauer Rose
Reed Smith
Ropes & Gray
Shearman & Sterling
Simpson Thacher
Skadden
Stoel Rives
Weil Gotshal

= 9

Wilentz Goldman
Willkie Farr
Winston & Strawn

COMPANIES

Alliance of Automobile
Manufacturers
Allscripts Healthcare Solutions Inc.
Amazon.com Inc.
American Bar Association
American Civil Liberties Union
= 9
American Federation of Labor and
Congress of Industrial
Organizations
American Federation of State,
County and Municipal Employees
American Federation of Teachers
American Fuel & Petrochemical
Manufacturers
American Medical Association Inc.
American Public Health
Association
American Thoracic Society

A New Jersey Assembly panel on Monday advanced legislation to establish a fund for settlement dollars obtained by the state through federal litigation against Volkswagen over the automaker's emissions cheating scandal, with the money to be used for air pollution control measures. [Read more »](#)

No Basis For Fuel-Efficiency Penalty Delay, 2nd Circ. Told

Five Democratic state attorneys general and a trio of environmental groups doubled down on their request that the Second Circuit vacate the delay of an Obama-era rule raising penalties for automakers that don't meet fuel efficiency standards, arguing Friday that the move violated well-settled law. [Read more »](#)

= 9 MEDIA & ENTERTAINMENT

= 9

Justices Cast Doubts On Federal Sports Betting Ban

Several U.S. Supreme Court justices on Monday seemed open to overturning a federal law prohibiting states from authorizing sports betting, potentially signaling a big win for New Jersey in its yearslong fight to allow the activity. [Read more »](#)

EMPLOYMENT

DOL Proposes Rolling Back Obama-Era 'Tip Pool' Rule

The U.S. Department of Labor on Monday proposed rolling back a rule that blocks employers from taking some service workers' tips to share with non-tipped staff, citing Supreme Court petitions regarding the controversial Obama-era rule and uncertainty about the agency's authority to issue it. = 9 [Read more »](#)

NLRB's New GC Puts Out List Of Policies To Be Reviewed

American Tort Reform Association
Apple Inc.

Bipartisan Policy Center

Cato Institute

Center for Biological Diversity Inc.

= 9

Cooper Tire & Rubber Co.

Environmental Defense Fund Inc.

Ernst & Young

Facebook

Federalist Society

Federation Internationale de

Football Association

Fiat Chrysler Automobiles NV

Global Automakers

= 9

Google Inc.

Humane Society of the United States

Independent Community Bankers of America

= 9

International Paper Co.

Ladies Professional Golf Association

Lyft Inc.

NFL Enterprises LLC

National Collegiate Athletic Association

National Employment Law Project

National Hockey League

= 9

National Restaurant Association

National Women's Law Center

Natural Resources Defense Council

New York University

Public Broadcasting Service

The National Labor Relations Board's new top attorney took a step toward undoing many of the board's more controversial recent decisions Friday, asking the agency's regional offices to send him cases involving certain priority issues such as handbook rules and the scope of federal protections for workers' concerted activities. [Read more »](#)

= 9

Seattle Insists Uber Union Law Immune From Antitrust Row

= 9

Seattle told the Ninth Circuit on Friday that its ordinance allowing drivers for ride-hailing companies Uber and Lyft to unionize is immune from antitrust challenges, and that the U.S. Chamber of Commerce's lawsuit against the collective bargaining law should be rejected. [Read more »](#)

= 9

COMPETITION

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Dems Want Past Mergers Reviewed For Impact On Jobs

= 9

A group of House Democrats on Monday introduced new legislation that would require antitrust enforcement agencies to study several mergers each year to understand the impact of the transactions on jobs and salaries, in addition to competition and consumer welfare. [Read more »](#)

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Aussie Watchdog To Eye Facebook, Google In Sector Review

Australia's antitrust enforcer will open an investigation into whether Facebook, Google and other digital platform providers are using their market power to harm competition for

Service Employees International Union

Sierra Club

Starbucks Corporation

The Wilderness Society

Twitter Inc.

U.S. Chamber of Commerce

Uber Technologies Inc.

Volkswagen

GOVERNMENT AGENCIES

Bureau of Land Management

California Air Resources Board

California Department of Justice

Consumer Financial Protection Bureau

= 9

European Commission

European Union

Executive Office of the President

= 9

Federal Bureau of Investigation

Federal Communications Commission

Federal Deposit Insurance Corp.

Federal Financial Institutions

Examination Council

Federal Reserve System

Federal Trade Commission

Government Accountability Office

Internal Revenue Service

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National Highway Traffic Safety Administration

National Labor Relations Board

Navajo Nation

New Jersey Attorney General's Office

New York Attorney General's Office

media and advertising, the government said Monday. [Read more »](#)

CONSUMER PROTECTION

Mo. Leads States' High Court Challenge To Calif. Egg Law

= 9 Twelve states including Missouri urged the U.S. Supreme Court on Monday to end a "restrictive" California law requiring that eggs sold in the Golden State come from laying hens that have space to stretch out and turn around freely in their cages, according to Missouri Attorney General Josh Hawley. [Read more »](#)

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GOVERNMENT CONTRACTS

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Senate Panel Gives GSA More Time On FBI Headquarters

A Senate panel on Friday gave the U.S. General Services Administration an additional 60 days to deliver a plan to move the FBI out of its aging headquarters, after the agency had originally said a new relocation plan, replacing a yearslong effort that collapsed earlier this year, would come before the end of November. [Read more ½ B](#)

INTERNATIONAL TRADE

= 9

EU Finalizes Dumping Rules As China WTO Case Simmers

The European Union's heads of state signed off on a suite of new trade remedy rules Monday in a move largely designed to head off a bombshell World Trade Organization complaint from China targeting Brussels for its treatment of Beijing in anti-dumping investigations. [Read more »](#)

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Office of Foreign Assets Control
Office of the Comptroller of the Currency

Securities and Exchange Commission

Transportation Security Administration

U.S. Attorney's Office

U.S. Coast Guard

= 9

U.S. Department of Health and Human Services

U.S. Department of Homeland Security

U.S. Department of Justice

U.S. Department of Labor

U.S. Department of the Interior

U.S. Department of the Treasury

U.S. Environmental Protection Agency

U.S. General Services Administration

U.S. Senate

U.S. Supreme Court

Washington Legislature

World Trade Organization

WTO Data Shows Marked Decline In New Trade Restrictions

World Trade Organization members are steadily backing away from imposing new trade barriers, the WTO reported Monday, offering more good news for observers who have expressed fear about the threat of protectionism to the multilateral system. = 9
Read more »

TAX

= 9

House Takes Step Toward Final Tax Bill

The House took a step toward arriving at a final tax bill Monday, setting up the process to reconcile the differences between the Senate-passed tax overhaul and the House's own bill passed last month. Read more ½ B

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Ireland, Apple Agree To Put \$15B In Escrow For Tax Dispute

The Ireland Department of Finance announced it has reached an agreement with Apple Inc. to put nearly \$15 billion in escrow while its dispute with the European Commission over alleged unpaid taxes proceeds through the courts. Read more »

Tax Pros See 'Panic' As New Partnership Audit Regs Loom

More time is needed to prepare for changes in federal partnership audit regulations that are set to take effect in four weeks, a conference of the nation's leading tax professionals was told Monday. Read more »

IMMIGRATION

= 9

Gov't Takes DACA Discovery Fight To High Court

The government on Friday went to the Supreme Court in an attempt to put the brakes on discovery in a group of cases over the rollback of the Deferred Action for Childhood Arrivals program, claiming that the lower court's "sweeping expansion" of the record goes against high court precedent. [Read more](#) »

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Immigration A Key Issue As Federal Funding Deadline Looms

= 9

U.S. Senate leaders kicked off what could be a major showdown over federal spending Monday, saying they would pursue a federal funding bill without immigration provisions Democrats have said are a condition for keeping the government open. [= 9 Read more](#) »

TELECOMMUNICATIONS

Dems Slam FCC Handling Of Net Neutrality Comment Fraud

New York's attorney general and a Democratic Federal Communications Commission leader spoke out Monday against apparent "stonewalling" from the agency in an investigation into millions of net neutrality comments filed with fraudulent identities, saying the FCC must address swirling uncertainty associated with the massive record. [Read more](#) »

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Democratic Senators Ask FCC To Delay Net Neutrality Vote

= 9

A group of Democratic senators on Monday called on the Federal Communications Commission to put off voting later this month on whether to roll back net neutrality protections until the agency could investigate whether the proceeding had been tainted by

hundreds of thousands of fraudulent public comments. [Read more »](#) = 9

Hollywood Trades Barbs With FCC's Pai Over Net Neutrality

Hollywood celebrities including actors Alyssa Milano and Mark Ruffalo continued to battle with Federal Communications Commission Chairman Ajit Pai on Twitter over the weekend over his expected rollback of net neutrality rules, raising questions about comments allegedly submitted to the agency via Russian email addresses. [Read more »](#)

WHITE COLLAR

Mueller Cites Gag Order Plot In Manafort House Arrest Fight

Indicted Trump campaign manager Paul Manafort was ghostwriting an editorial about his Ukrainian lobbying work despite a judge's gag order barring statements to the media, Special Counsel Robert Mueller's office said in a Monday court filing seeking to keep Manafort on house arrest. [Read more »](#)

PEOPLE

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Fox Rothschild, Duane Morris Partners Tapped For NJ Bench

A Fox Rothschild LLP labor and employment partner and a Duane Morris LLP litigation partner were among 19 attorneys tapped by Gov. Chris Christie for New Jersey judgeships, according to a Monday announcement from the governor's office of appointments filed with the Secretary of State. [Read more »](#)

= 9 EXPERT ANALYSIS

= 9

Opinion

= 9

Trump's Contraception Rules Suffer From Fatal Legal Flaws

= 9 As the comment period comes to a close Tuesday for the Trump administration's interim final rules on contraception, the administration will start preparing final regulations — risking access to birth control coverage under the Affordable Care Act for thousands of women, says Nancy Northup, CEO of the Center for Reproductive Rights. [Read more »](#)

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Putting China's Fair Competition Review System Into Action

= 9

Five competition-related authorities recently issued another "top-level design" for promoting implementation of China's Fair Competition Review System, which should contribute to achieving the Chinese government's goals of regulating the activities of government agencies and maintaining fair competition in markets, say Shelley Zhang and David Goldstein of Orrick Herrington & Sutcliffe LLP. [Read more »](#)

= 9

5 Things US Cos. Should Know About Labor Reform In France = 9

The French government recently unveiled administrative orders setting out details of the reform aiming to revise French employment law. Now, with 2018 upon us, U.S. companies operating businesses in France need to be prepared for the implementation of those changes, say Severine Martel and Marie Brunot of Reed Smith LLP. [Read more »](#)

= 9

New Burma Act Would Hinder US Investment In Myanmar

Some experts estimate that the Burmese military controls up to 50 percent of the country's economy, and that an additional 20 percent is controlled by individuals and entities targeted under separate sanctions programs. As a practical matter, enactment of the Burma Act of 2017 would mean that a significant

portion of Myanmar's economy would be off-limits to U.S. investors, say members of Ropes & Gray LLP. [Read more »](#)

LEGAL INDUSTRY

Analysis

How To Tell If You're Dealing With Burnout

A general sense of malaise and unhappiness can set in when lawyers overextend themselves, are repeatedly bombarded with stressful situations, or fail to create a balance between work and the rest of their lives. Here, mental health professionals offer a guidebook for lawyers on how to identify whether that sense of dissatisfaction is actually burnout. [Read more »](#)

= 9

Akin, Ropes Offer Variations On Cravath Bonuses

= 9 Akin Gump Strauss Hauer & Feld LLP and Ropes & Gray LLP have each revealed that they will award year-end bonuses to U.S. associates with slight variations to the scale established by Cravath Swaine & Moore LLP, which has largely held sway over BigLaw firms since it was announced Nov. 28. [Read more »](#)

McGuireWoods Taps 1st African-American Chair In Its History

McGuireWoods LLP on Monday said litigator Jonathan P. Harmon will take over as chairman of the firm, succeeding a man who held the position for more than a decade and becoming the first African-American to hold the post in firm history. [Read more »](#) = 9

15 Minutes With The AMA's General Counsel

Brian D. Vandenberg took over as general counsel and senior vice president of the American Medical Association in February, bringing to the role a background in working for

companies at the intersection of health and innovation. [Read more »](#)

4 Changes To The Senate Tax Bill You May Have Missed = 9

In a rush to pass its \$1.4 trillion tax cut bill early Saturday, the Senate made several last-minute changes to major provisions to win over holdouts, but it also included less-publicized changes affecting the tax treatment of Ninth Circuit lawyers, sports leagues and universities. Here are details on four under-the-radar changes that were made to the Senate tax bill. [Read more »](#)

= 9 JOBS

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From: troy tackett
Sent: Wednesday, December 6, 2017 1:33 AM
To: Rep93
Subject: Are you going to Nashville?

Ryan Smith,

I'm a constituent and I am writing to ask if you are attending the American Legislative Exchange Council's "States & Nation" meeting in Denver this week.

I am very concerned about ALEC's influence. ALEC is an organization that has repeatedly put corporate profits above the desire of the American people.

By refusing to become a member of ALEC, you stand with the people you represent. People that play fair and work hard.

troy tackett
ttackett131@yahoo.com
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proctorville, Ohio 45669

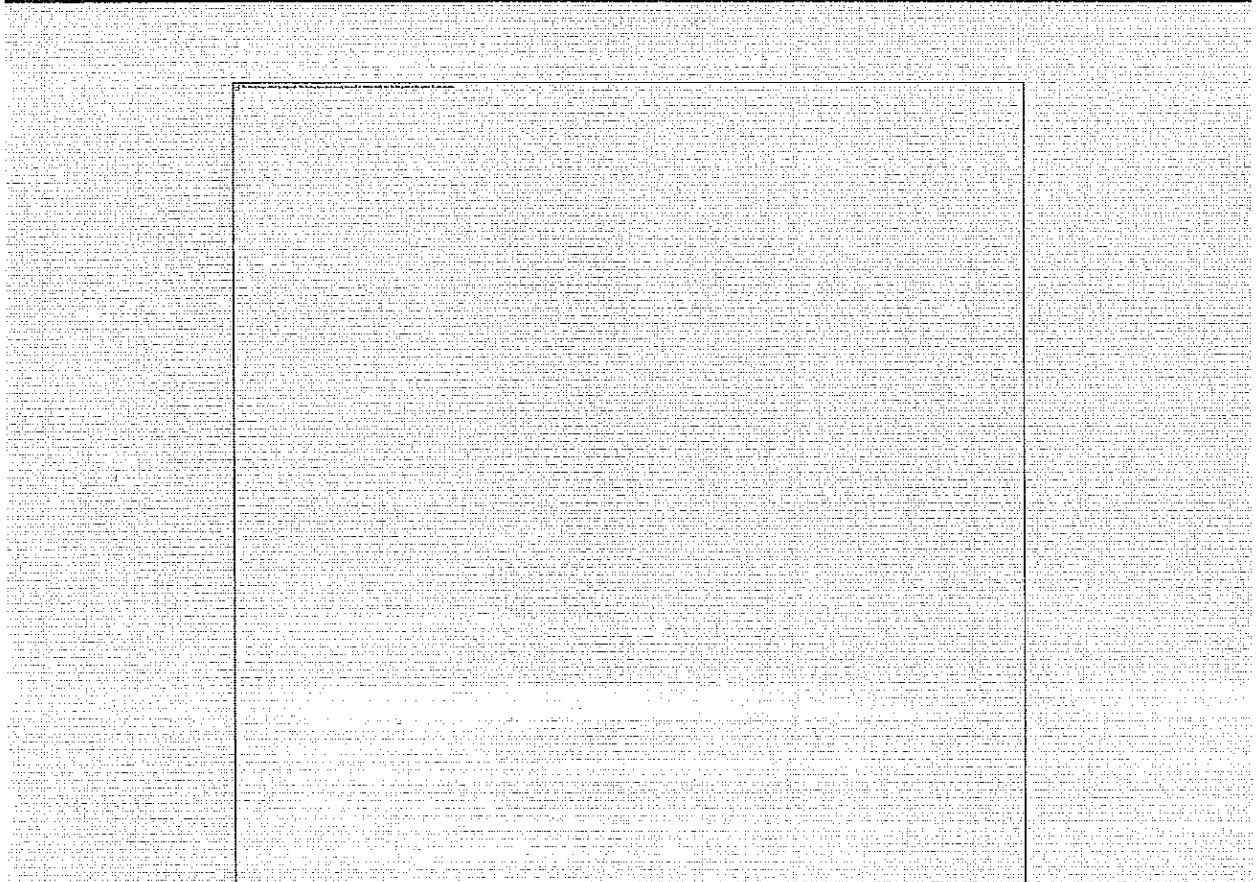
From: Morning Consult

Sent: Wednesday, December 6, 2017 9:04 AM

To: Rep93

Subject: Morning Consult Washington, Presented by the Electronic Payments Coalition: Senate Confirms Nielsen to Lead DHS

Attachments: ATT00001.txt; ATT00002.htm



















By Eli Yokley

Top Stories

- The Senate voted 62 to 37 to confirm Kirstjen Nielsen to lead the Department of Homeland Security. Nielsen had served as chief of staff to John Kelly when he was DHS secretary, and she later became a top White House aide when Kelly was named President Donald Trump's chief of staff. ([CNN](#))
- International leaders criticized Trump's plan to recognize Jerusalem as Israel's capital, which he is set to announce today. Pope Francis said he was "profoundly concerned," while China raised concerns about "possible aggravation of regional tensions." ([The Associated Press](#))
- Donald Trump Jr., the president's eldest son, is scheduled to testify today before the House Intelligence Committee behind closed doors. Democratic investigators are interested in the Trump family's financial ties to Moscow and any communications Trump Jr. had with former national security adviser Michael Flynn, who pleaded guilty to lying to the Federal Bureau of Investigation about his meeting with Sergey Kislyak, Russia's ambassador to the United States. ([The Hill](#))
- A new poll found that 61 percent of registered voters say Congress should probe all credible allegations of sexual misconduct against a sitting politician, even if the alleged events took place before the lawmaker took office. The survey comes amid allegations of past sexual misconduct involving Sen. Al Franken (D-Minn.) and ahead of the Dec. 12 special election for Senate in Alabama, where Republican nominee Roy Moore has been accused of sexual misconduct from decades ago. ([Morning Consult](#))

Deadline Looming, House GOP Keeps Talking About Funding Options

Government shutdowns have typically occurred when different parties control either the House, Senate or White House – aside from funding lapses in the early 1970s during which the government remained functioning.

Date	Party Control			Days of shutdown	Reason
Sep 30, 2013					House GOP and Senate deadlocked over changes to the health care law
Dec 15, 1995					GOP-led Congress failed to pass six titles and Clinton vetoed three others
Nov 13, 1995					Clinton vetoed CR to block Medicare premium increases
Oct 5, 1990					H. W. Bush vetoed CR, pressing Democratic Congress to pass a budget

Source: CQ data, Congressional Research Service
Randy Leonard/Roll Call

Roll Call

Events Calendar (All Times Local)

WEDNESDAY

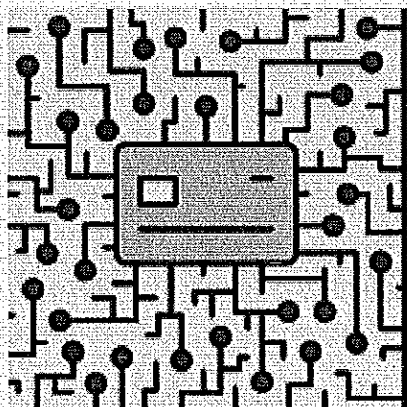
California Attorney General Becerra speaks at National Press Club	10 a.m.
Sen. Burr speaks at Council on Foreign Relations event	12:45 p.m.
Sen. Coons speaks at ITIF event on the economy	1 p.m.
House Foreign Affairs Committee hearing on Brexit negotiations	2 p.m.

THURSDAY

ACCF event on Trump's economic policy agenda	9:30 a.m.
Carnegie Endowment for International Peace event on sanctions for nonproliferation	10 a.m.
Senate Armed Services Committee hearing on the Defense Department's acquisition reform efforts	10 a.m.
FBI director testifies before House Judiciary Committee	10 a.m.
CSIS event on OPEC's World Oil Outlook 2017	2 p.m.

FRIDAY

Carnegie Endowment for International Peace event on China and the U.S.-Japan alliance	10:30 a.m.
Trump campaign rally in Pensacola, Fla.	7 p.m.



NEW REPORT:

EMV is critical in reducing counterfeit payment fraud. Payments innovation is key to data security's future.



[LEARN MORE FROM EPC](#)

General

Voters Say No Statute of Limitations for Lawmakers Accused of Sexual Misconduct

Eli Yokley, Morning Consult

Most voters say that lawmakers accused of sexual misconduct should be formally investigated, even if the alleged events occurred before they took office, a new Morning Consult/Politico poll shows. Sixty-one percent of poll respondents said Congress should probe all credible allegations of sexual misconduct against a sitting politician, while 28 percent said the legislative body should only investigate events that took place after a lawmaker was sworn in.

Justices Sharply Divided in Wedding Cake Case

Adam Liptak, The New York Times

Justice Anthony M. Kennedy, who almost certainly holds the crucial vote in the case of a Colorado baker who refused to make a wedding cake for a gay couple, sent sharply contradictory messages when it was argued Tuesday at the Supreme Court. He asked a lawyer for the Trump

administration whether the baker, Jack Phillips, could put a sign in his window saying, "We don't bake cakes for gay weddings."

DOJ reviewing whether gun bump stocks should be banned
Cristiano Lima, Politico

Federal authorities announced Tuesday they are reviewing whether bump stocks, the gun accessory used in a Las Vegas shooting in October that killed 58 concert-goers, should be prohibited. The Department of Justice and the Bureau of Alcohol, Tobacco, Firearms and Explosives said the process will seek to determine whether existing regulations outlawing the possession of machine guns can be applied to the accessory, which lets semi-automatic weapons fire more rapidly.

Presidential

Warnings intensify as Trump readies Jerusalem declaration
Josef Federman and Matthew Lee, The Associated Press

America's friends and foes unleashed fierce criticism on Wednesday ahead of President Donald Trump's announcement recognizing Jerusalem as Israel's capital. While Israel welcomed the news, Palestinian officials declared the Mideast peace process "finished" and Turkey announced it would host a meeting of Islamic nations next week to give Muslim countries' leaders an opportunity to coordinate a response.

Trump pressuring congressional Republicans to speed up on tax reform
Nancy Cook and Aaron Lorenzo, Politico

President Donald Trump has told congressional leaders he'd like the final deal on tax reform to move even faster than the Dec. 22 goal they've set, according to White House officials. "We want it to proceed as quickly as possible, and we've communicated that to the Hill in a lot of ways," said Marc Short, White House director of legislative affairs.

Trump pushing to dismiss suit brought by former 'Apprentice' contestant over groping claims
Laura Nahmias, Politico

Sexual harassment allegations against President Donald Trump dating back to his days hosting the reality TV show "The Apprentice" will be raised in a New York courtroom Tuesday afternoon, where a judge will hear arguments on a motion to dismiss a suit brought by a former contestant who says Trump groped her a decade ago. Summer Zervos filed a defamation suit after Trump issued a statement appearing to dismiss her allegations that he repeatedly kissed her on the mouth, grabbed her breast and thrust his genitals at her when she appeared on the show in 2007.

Senate

Senate confirms Trump's 2nd permanent DHS chief
Eli Watkins, CNN

The Senate on Tuesday confirmed Kirstjen Nielsen to be secretary of Homeland Security, permanently filling the vacancy created when President Donald Trump selected retired Gen. John Kelly to be his chief of staff. Kelly left the Department of Homeland Security for the White House in late July during a shakeup that included the resignation of the former chief of staff, Reince Priebus.

GOP senators grumble over Trump, RNC backing Moore
Seung Min Kim and Kevin Robillard, Politico

Senate Republicans are still trying to keep their distance from Roy Moore, creating a fresh break with President Donald Trump and the Republican National Committee, which have re-embraced Moore less than a week before a key special Senate election despite accusations of child molestation against the Alabama Republican. Both the National Republican Senatorial Committee and the Senate Leadership Fund, a super PAC controlled by allies of Senate Majority Leader Mitch

McConnell, said they plan on staying out of the contest. Several Republican senators furiously protested the RNC's decision on Tuesday.

Bannon Finds New Fight Backing Roy Moore, but Risks Are High

Jeremy W. Peters, The New York Times

Four months ago, Stephen K. Bannon was plotting a takeover of Washington and the Republican Party from his office in the West Wing as chief strategist to President Trump. On Tuesday, Mr. Bannon the private citizen stood where his latest fight had taken him: the mulch floor of a barn in southern Alabama, where he delivered a passionate plea to elect Roy S. Moore, the former judge who faces numerous accusations that he preyed on young women, some of them teenagers.

Democrats place hold on McFarland nomination
Manu Raju and Jeremy Herb, CNN

Democrats have placed a hold on the nomination of KT McFarland to be ambassador to Singapore until she answers their questions about her knowledge of communications between former national security adviser Michael Flynn and Russian ambassador Sergey Kislyak, a Democratic source told CNN. McFarland told the Senate Foreign Relations Committee in written comments that she "was not aware" of any communications between Flynn and the Russian ambassador - an assertion that appears to be contradicted by court documents unsealed Friday after Flynn pleaded guilty to lying to the FBI.

Senate Banking Advances Powell Nomination for Fed Chairman

Doug Sword, Roll Call

The Senate Banking Committee voted 22-1 Tuesday to recommend confirmation of Jerome Powell as the next chairman of the Federal Reserve. Massachusetts Sen. Elizabeth Warren voted against the recommendation.

E.W. Jackson, conservative firebrand, preparing U.S. Senate bid in Virginia

Jenna Portnoy, The Washington Post

E.W. Jackson, a firebrand minister who says yoga leads to Satan and gay people are ill, plans to announce he is seeking the Republican nomination to challenge U.S. Sen. Tim Kaine (D-Va.) next year, according to Jackson's finance director. Jackson will announce his candidacy on Dec. 11 in the Chesapeake area, said Steven Thomas, who said he is raising money for Jackson's campaign and filled the same role during Jackson's 2013 losing bid for lieutenant governor.

House

Trump Jr. set for high-stakes interview with House intel panel
Katie Bo Williams and Olivia Beavers, The Hill

Donald Trump Jr. is set on Wednesday to testify before congressional investigators probing Russian interference in the election, the latest high-stakes-interview of a member of President Trump's immediate family. The interview, which is voluntary and will take place behind closed doors with the House Intelligence Committee, is Trump Jr.'s second appearance on Capitol Hill and follows similar interviews by the president's son-in-law, Jared Kushner.

Donald Trump Jr. asked Russian lawyer for info on Clinton Foundation

Ken Dilanian and Natasha Lebedeva, NBC News

Donald Trump Jr. asked a Russian lawyer at the June 2016 Trump Tower meeting whether she had evidence of illegal donations to the Clinton Foundation, the lawyer told the Senate Judiciary Committee in answers to written questions obtained exclusively by NBC News. The lawyer, Natalia Veselnitskaya, told the committee that she didn't have any such evidence, and that she believes Trump misunderstood the nature of the meeting after receiving emails from a music promoter promising

incriminating information on Hillary Clinton, Donald Trump's Democratic opponent.

House GOP Postpones Short-Term Spending Bill Vote
Kristina Peterson, The Wall Street Journal

A dispute among House Republicans over their year-end strategy forced GOP leaders to delay a vote on a stopgap spending bill, with just a handful of days before a partial government shutdown. House GOP leaders were still debating Tuesday evening whether to bring to the floor on Thursday a short-term spending bill to keep the government running through Dec. 22 or Dec. 30.

House GOP exploring tax plan changes to help California, other high-tax states
Mike DeBonis, The Washington Post

Top House Republicans said Tuesday they were exploring changes to their tax plan that would lower tax bills for Californians and others who pay high state income taxes - including by allowing Americans to deduct some state income tax payments from what they owe in federal taxes. House Ways and Means Chairman Kevin Brady (R-Tex.) told reporters Tuesday that tax writers are looking at a number of ways to give relief to residents of high-tax states.

Black lawmakers resentful after Conyers resignation
John Bresnahan, Politico

The stunning fall of Democratic Rep. John Conyers - who resigned Tuesday amid a growing sexual-harassment scandal - has left confusion, anger, resentment and bewilderment inside the ranks of the Congressional Black Caucus, a group that Conyers helped found nearly four decades ago. Many CBC members see a double standard at play.

Conservative lawmakers met to discuss GOP chairman's ouster
Scott Wong, The Hill

Leaders of the conservative Republican Study Committee met last week and discussed their desire to oust Rep. Rodney Frelinghuysen as Appropriations chairman after the New Jersey Republican voted against the GOP tax-reform bill, The Hill has learned. Majority Whip Steve Scalise (R-La.), a former Republican Study Committee (RSC) chairman who's now the party's chief vote-counter, participated in that discussion last Thursday, GOP sources said.

Lexington Mayor Jim Gray running for Congress
Daniel Desrochers, Lexington Herald Leader

After months of will-he, won't-he whispering among Kentucky Democrats, Lexington Mayor Jim Gray made it official early Tuesday: He's running for Congress. "We need to bring people together; we need to reach across partisan lines," Gray said as he launched his campaign in Berea.

States

Joe Trillo to run for governor as an independent
Patrick Anderson, Providence Journal

Joseph A. Trillo, the former Republican state lawmaker who became the leading Rhode Island advocate for President Donald Trump, said Tuesday he will run for governor as an independent, shocking many in the party he is leaving and adding a new wrinkle to the developing 2018 race. "To win with my message in Rhode Island I will need Democratic support. I feel this can only be accomplished by shedding party politics and running as an independent," Trillo said as he formally launched his campaign on radio station WPRO Tuesday afternoon.

Ben Jealous releases plan for statewide 'Medicare for all'
Michael Dresser, The Baltimore Sun

Democratic gubernatorial candidate Ben Jealous released a plan Wednesday calling on Maryland to take the plunge and create a universal

health care system without waiting for the the federal government to take the lead. The release of Jealous' outline of a statewide "Medicare for all" plan comes as he is planning a Wednesday night rally at the College of Notre Dame with 2016-presidential candidate Sen. Bernie Sanders, a supporter of single-payer health care who has endorsed Jealous' candidacy.

Women rock Tuesday's runoffs in metro Atlanta
Greg Bluestein, Atlanta Journal-Constitution

There was never any doubt that voters on Tuesday would elect Atlanta's second female mayor. But up and down the ballot for Tuesday's runoff, metro Atlanta voters sent a wave of other women to public office.

Advocacy

Conservative Groups Seeking Support for Tax Cuts Find It a Hard Sell

Jeremy W. Peters, The New York Times

A dozen high school students working for Americans for Prosperity, the conservative political network funded by Charles G. and David H. Koch, fanned out across the Little Havana neighborhood one day last week to make the case that the Republican tax bill was something to get excited about. "We believe it's time to fix our broken tax code and let families keep more of what they earn," Barbara D'Ambrosio, a sophomore, dutifully told an elderly woman who answered the door in her slippers.

How Trump Did the Impossible: Getting Solar and Oil Lobbyists to Unite

Ari Natter and Jennifer A Dlouhy, Bloomberg

In his 20 years of promoting renewable energy in Washington, Gregory Wetstone has made common cause with a range of special interest groups:- environmentalists, power utilities, even a handful of natural gas producers. But President Donald Trump's efforts to bail out the coal

industry led Wetstone, the head of the American Council on Renewable Energy, to find a surprising new partner: Big Oil.

A Message from the Electronic Payments Coalition:

A new EPC report analyzes how countries that adopt EMV experience lower counterfeit card fraud rates. It's time for a dynamic data security strategy to protect consumers like you. [Learn more](#) from EPC.

Opinions, Editorials and Perspectives

Does President Trump Want to Negotiate Middle East Peace? The Editorial Board, The New York Times

In the debate over a potential Israeli-Palestinian peace agreement, no issue is more charged with emotion than the future of Jerusalem. Should the holy city be the capital of the Israelis alone or shared with the Palestinians?

The Right Move on Monuments The Editorial Board, The Wall Street Journal

President Trump announced Monday that he will dramatically reduce the acreage of two national monuments. The order ends excessive federal control of Utah land, allowing residents to protect their own territory and conserve their cultural relics.

What a presidential president would have said about the FBI Editorial Board, The Washington Post

Given how far President Trump strays from the norms of democratic rhetoric, we think it useful from time to time to recall how a more presidential president might speak. This is another such time.

A Message from the Electronic Payments Coalition:

NEW REPORT: EMV adoption is critical to reduce counterfeit fraud in the U.S. Learn how EPC members are developing and implementing new technologies to make your life more secure.

Research Reports and Polling

One Nation, Divided, Under Trump: Findings from the 2017 American Values Survey

Alex Vandermaas-Peeler et al., PRRI

Seven in ten (70%) Americans say that recent stories about women being sexually harassed and assaulted in the workplace are part of a broader pattern of how women are often treated, while about one-quarter (24%) say that they are isolated incidents. Nearly eight in ten (78%) women, and more than six in ten (63%) men, say that recent reports of sexual harassment and assault are not isolated incidents.

Best Places to Work in the Federal Government **Partnership for Public Service**

The annual Best Places to Work in the Federal Government® rankings are produced by the nonprofit, nonpartisan Partnership for Public Service and Deloitte. The 2017 rankings include the views of more than 498,000 civil servants from 200 federal organizations on a wide range of workplace topics.

Two-thirds of youth fearful about America's future, prefer Democratic control of Congress, Harvard youth poll finds
Harvard Institute of Politics

A new national poll of America's 18- to 29-year-olds by Harvard's Institute of Politics (IOP), located at the Kennedy School of Government, finds that two-thirds of young Americans (67%) are more fearful than hopeful about America's future. Less than one year before the 2018 midterm elections, likely young American voters cite preference for Democratic control of Congress, 65% to 33%.



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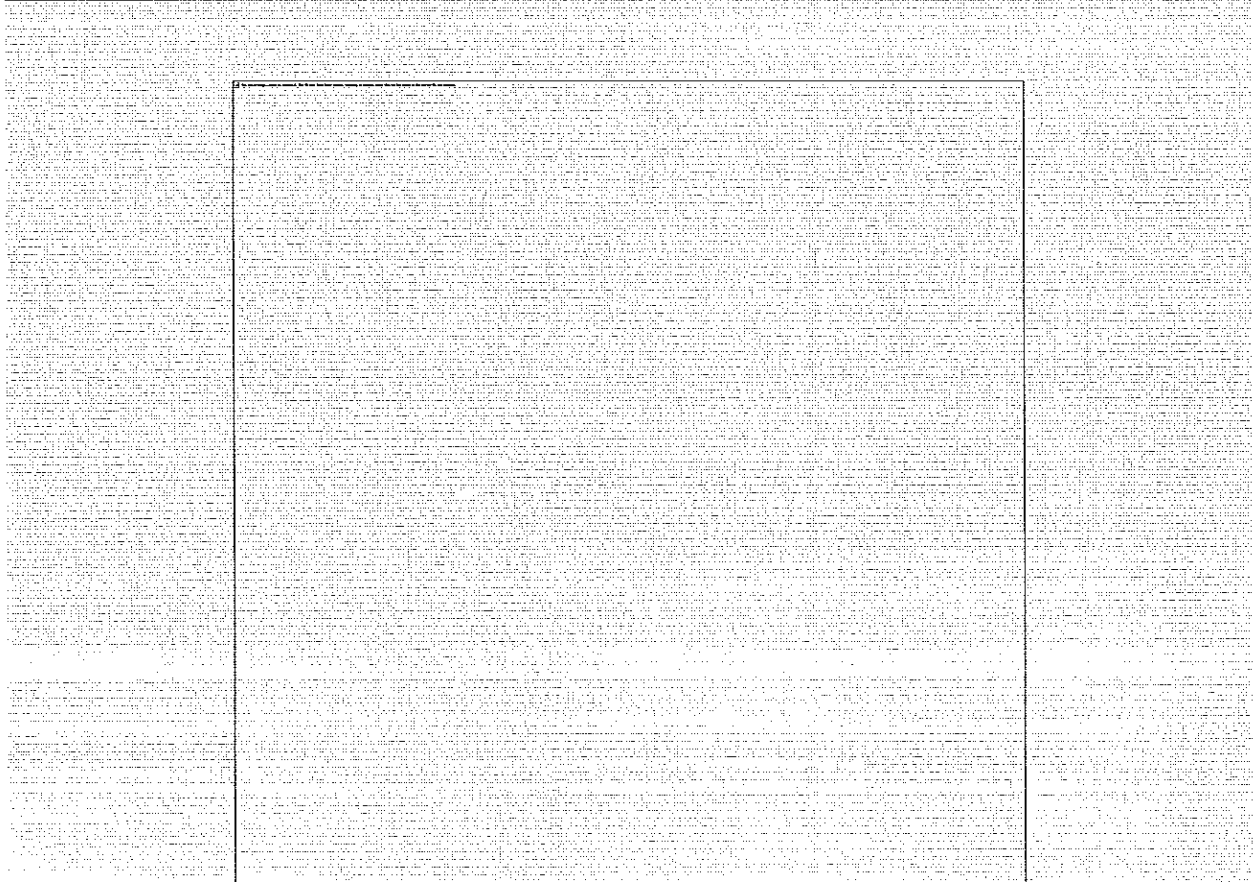
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Sent: Thursday, December 7, 2017 9:20 AM

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Subject: Morning Consult Washington, Presented by the Electronic Payments Coalition: Franken to Make Announcement From Senate Floor This Morning

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By Eli Yokley

Top Stories

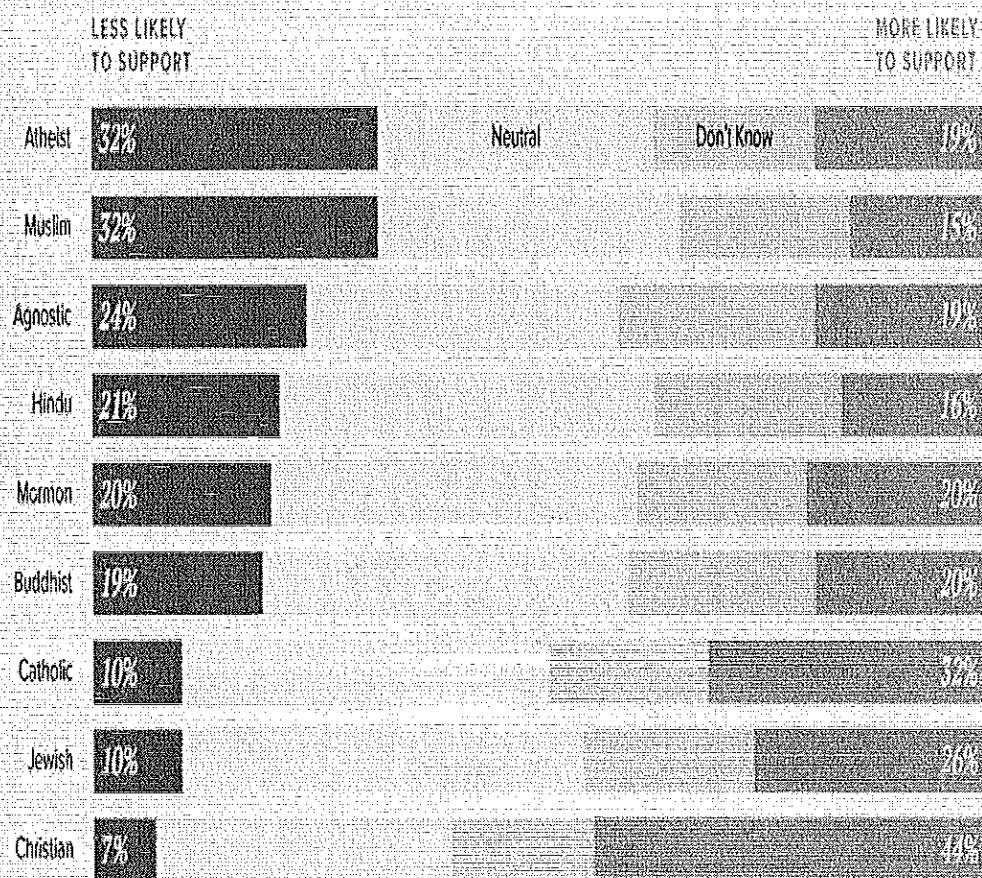
- Sen. Al Franken (D-Minn.) plans to resign from the Senate following calls from more than half of the Senate Democratic Caucus to quit amid allegations of sexual misconduct, according to an unnamed Democratic official. Franken's office said no final decision has been made, and the Minnesota Democrat plans to make an announcement from the Senate floor this morning. ([Star Tribune](#))
 - The House voted 231 to 198 to pass legislation that would let concealed carry license holders conceal a handgun in other states, with opposition from 14 Republicans and support from six Democrats. The measure, a top priority for the National Rifle Association, is strongly opposed by Senate Democrats. ([Politico](#))
 - President Donald Trump is set to meet today with Republican and Democratic leaders from the House and Senate to discuss a long-term budget deal as lawmakers prepare to pass a stopgap spending measure to avoid a government shutdown on Saturday. The House is expected to vote today on a bill that would keep the government open through Dec. 22, with the Senate expected to vote on the measure Friday. ([Bloomberg](#))
 - The Senate voted to begin negotiations with the House on competing bills that would overhaul the federal tax code, with the goal of resolving differences on issue such as deductions for medical expenses and state income taxes. The eight Senate GOP conferees include Finance Committee Chairman Orrin Hatch of Utah, Budget Committee Chairman Mike Enzi of Wyoming, and Energy and Natural Resources Committee Chairman Lisa Murkowski of Alaska. ([The Wall Street Journal](#))
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Chart Review

**Americans Are Skeptical of Muslim, Atheist Candidates, but That
Could Change**
Morning Consult

Atheists, Muslims Garner Least Support From Americans

Does knowing a candidate who is running for public office has the following background make you more or less likely to vote for them?



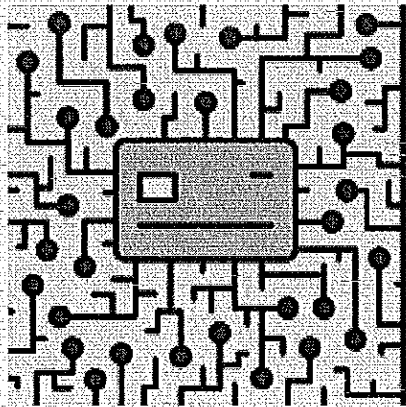
Events Calendar (All Times Local)

THURSDAY

ACCF event on Trump's economic policy agenda	9:30 a.m.
Carnegie Endowment for International Peace event on sanctions for nonproliferation	10 a.m.
Senate Armed Services Committee hearing on the Defense Department's acquisition reform efforts	10 a.m.
FBI director testifies before House Judiciary Committee	10 a.m.
CSIS event on OPEC's World Oil Outlook 2017	2 p.m.

FRIDAY

Carnegie Endowment for International Peace event on China and the U.S.-Japan alliance	10:30 a.m.
Trump campaign rally in Pensacola, Fla.	7 p.m.



NEW REPORT:

EMV is critical in reducing counterfeit payment fraud. Payments innovation is key to data security's future.



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General

Voters Back Government Shutdown to Renew Health Insurance Program for Kids

Jon Reid, Morning Consult

Two-thirds of voters in a new poll indicated support for shutting down the federal government until Congress reauthorizes the Children's Health Insurance Program, which lawmakers let expire in September amid partisan disagreements over how to pay for a funding extension. With funding for government operations set to expire on Friday absent congressional action, 67 percent of respondents said they support shutting down the government over CHIP, according to a Morning Consult/Politico poll conducted Dec. 1-3.

Flynn Said Russian Sanctions Would Be 'Ripped Up,' Whistle-Blower Says

Mark Mazzetti and Michael S. Schmidt, The New York Times

Michael T. Flynn, President Trump's former national security adviser, told a former business associate that economic sanctions against Russia would be "ripped up" as one of the Trump administration's first acts, according to an account by a whistle-blower made public on Wednesday. Mr. Flynn believed that ending the sanctions could allow a business

project he had once participated in to move forward, according to the whistle-blower.

Republicans hammer Mueller, FBI as Russia investigation intensifies

Devlin Barrett and Sean Sullivan, The Washington Post

Republican activists and lawmakers are engaged in a multi-front attack on special counsel Robert S. Mueller III's probe of possible connections between associates of President Trump and Russian agents, trying to stop or curtail the investigation as it moves further into Trump's inner circle. For months, the president and his allies have been seizing on any whiff of possible impropriety by Mueller's team or the FBI to argue that the Russia probe is stacked against Trump - potentially building the political support needed to dismiss the special counsel.

Presidential

Trump to Meet Democrats With Congress on Track to Avoid Shutdown

Erik Wasson et al., Bloomberg

President Donald Trump will meet with congressional leaders from both parties Thursday to negotiate on a long-term budget deal as Congress prepares to pass a stopgap spending measure to avoid a U.S. government shutdown Saturday. The House is expected to vote on a two-week spending bill to keep the government open through Dec. 22, with Senate action coming by Friday.

U.S. 9th Circuit judges skeptical of Trump's travel ban
Maura Dolan, Los Angeles Times

Two days after the Supreme Court allowed President Trump to enforce his travel ban, a federal appeals court appeared skeptical that it complied with the law. During a hearing in Seattle before a three-judge panel of the U.S. 9th Circuit Court of Appeals, a lawyer for the Trump administration

argued the revised ban issued in September was based on careful study and tailored toward specific conditions in various countries.

Trump administration opposes unions in key Supreme Court case

Ian Kullgren, Politico

The Trump administration sided against public employee unions Wednesday evening in a Supreme Court case that could deal the labor movement a crippling financial blow. In a brief submitted in Janus v. American Federation of State, County, and Municipal Employees, the Office of Solicitor General sided with a child-support specialist for the state of Illinois who's challenging AFSCME's legal right to collect so-called "fair-share fees" from union nonmembers.

Trump Jr. Won't Provide Details of a Call With His Father
Sharon LaFraniere and Nicholas Fandos, The New York Times

Donald Trump Jr. refused on Wednesday to provide a congressional committee details of a July telephone conversation with his father about a meeting last year at which Trump campaign officials had expected to receive damaging information from the Russian government about Hillary Clinton. Testifying in a closed session before the House Intelligence Committee, Mr. Trump claimed that his conversation over the summer with his father, two days after The New York Times disclosed the June 2016 meeting at Trump Tower in Manhattan, was protected under attorney-client privilege because lawyers for both men were on the call.

Haley: 'Open question' if US athletes can attend Olympics in South Korea

Sophie Tatum, CNN

Whether US athletes will be able to attend the 2018 Winter Olympics in South Korea remains an "open question," US Ambassador to the United

Nations Nikki Haley said Wednesday night. The Winter Olympics are set to be held Feb. 9-25 in Pyeongchang, South Korea.

Senate

Sen. Al Franken plans a morning announcement on the Senate floor

Jennifer Brooks et al., Star Tribune

Democratic Party leaders united Wednesday in calling for Sen. Al Franken to resign from the U.S. Senate, an extraordinary rebuke to the Minnesota Democrat as he faced a new allegation of sexual harassment. Franken planned to make an announcement about his future Thursday morning on the Senate floor.

Senate Votes to Begin Tax-Overhaul Negotiations With House

Richard Rubin, The Wall Street Journal

The U.S. Senate voted Wednesday to start formal tax-bill negotiations with the House of Representatives as lawmakers began grappling with the delicate balance they must strike to advance final legislation through both chambers and to the president by Christmas. Republicans are weighing a number of changes that would expand tax cuts and force offsetting adjustments.

Bredesen running for Senate

Cari Wade Gervin, Nashville Post

Former Gov. Phil Bredesen is entering the Democratic primary for U.S. Senate. According to multiple sources, Bredesen began calling major donors this afternoon to confirm that he is in the race.

Indiana GOP Senate candidate voted Democrat until 2012

Brian Slodysko, The Associated Press

A wealthy Indiana Senate candidate who bills himself in television ads as a conservative Republican voted for more than a decade in the state's Democratic primaries, according to public documents obtained by The Associated Press. Records from the Dubois County Clerk's office, where candidate Mike Braun is registered to vote, show the 63-year-old consistently cast Democratic ballots in partisan primary elections until 2012.

House

House passes concealed carry gun bill in win for GOP and NRA **John Bresnahan, Politico**

The House passed legislation to permit concealed carry license holders to conceal a handgun in other states, the first time Congress has taken action on a gun bill since President Donald Trump was sworn into office. The "Concealed Carry Reciprocity Act," a top priority for the National Rifle Association and other gun-rights groups, passed 231-198.

House Republicans Weigh Linking Debt Ceiling Increase to Spending Bill **Kristina Peterson and Kate Davidson, The Wall Street Journal**

A group of House Republicans is considering pushing to raise the government's borrowing limit as part of the next long-term spending bill, a move that could help dispatch one of the thorniest issues for GOP lawmakers before next year's primary elections intensify. Rep. Doug Collins of Georgia, a member of House GOP leadership and the head of a working group of House Republicans on the debt limit, said lawmakers were considering increasing the debt ceiling as part of the bill funding the government for the rest of the fiscal year, known as an omnibus.

Ryan says Republicans to target welfare, Medicare, Medicaid spending in 2018 **Jeff Stein, The Washington Post**

House Speaker Paul D. Ryan (R-Wis.) said Wednesday that congressional Republicans will aim next year to reduce spending on both federal health care and anti-poverty programs, citing the need to reduce America's deficit. "We're going to have to get back next year at entitlement reform, which is how you tackle the debt and the deficit," Ryan said during an appearance on Ross Kaminsky's talk radio show.

Kihuen Mum on Re-Election Question
Bridget Bowman, Roll Call

Nevada Democratic Rep. Ruben Kihuen declined to answer questions Wednesday morning about whether he will run for re-election. "We're going to be making another statement here in the next few days," Kihuen told Roll Call as he walked to the Capitol.

Andy Levin running to replace father Sandy Levin in 9th Congressional district
Lauren Gibbons, MLive.com

Andy Levin, the son of sitting U.S. Rep. Sandy Levin and the former head of the Michigan Department of Energy, Labor and Economic Growth, has announced his bid to replace his father in Washington, D.C. Andy Levin, of Bloomfield Twp., is the founder of a clean energy business and directed worker training as part of his role with the state of Michigan under former Gov. Jennifer Granholm.

John Conyers III was arrested for domestic abuse but not prosecuted
Andrew Blankstein and Alex Johnson, NBC News

John Conyers III, a Detroit hedge fund manager named as a possible successor to his scandal-rocked father, Rep. John Conyers, was arrested in Los Angeles this year on suspicion of domestic violence, but prosecutors declined to charge him, according to documents obtained by NBC News. The Los Angeles County District Attorney's Office cited a "lack of independent witnesses" and their conclusion that it "could not be proven beyond a reasonable doubt that the victim's injury was not

accidentally sustained" while he was disarming her, according to case paperwork.

States

Race where Republican leads by 10 votes instrumental to deciding Va. politics' fate

Fenit Nirappil, The Washington Post

It was "Take Your State Legislator to School Day" in this coastal Virginia city. And two of them showed up.

Independent Greg Orman reshuffles the race for Kansas governor

Bryan Lowry and Jonathan Shorman, The Kansas City Star

A Johnson County businessman with tens of millions in assets took the first major steps Wednesday toward an independent candidacy for governor. Greg Orman, who mounted a failed bid for U.S. Senate in 2014, filed paperwork with the state to establish a campaign committee and begin fundraising.

Dallas County Sheriff Lupe Valdez, a Democrat, is running for governor

Patrick Svitek, The Texas Tribune

Dallas County Sheriff Lupe Valdez announced Wednesday morning that she is running for governor, giving Texas Democrats a serious candidate for the top job with five days until the candidate filing deadline for the 2018 primaries. "Like so many hardworking Texans, I know it's tough deciding between buying food, finding a decent place to live, and setting aside money for college tuition," Valdez said in a statement before filing at the Texas Democratic Party headquarters in Austin.

Gay man who was denied marriage license by Kim Davis is running for her job

Adam Beam, The Associated Press

David Ermold returned to the Rowan County courthouse Wednesday, nearly two years after Clerk Kim Davis refused to give him a marriage license because he was gay. Only this time, he did not want a license.

Illinois governor's race haunted by 2016 presidential primary
Natasha Korecki, Politico

An inevitable candidate. Accusations of a rigged primary.

Advocacy

Lobbyists push GOP in last-minute scramble to save tax breaks
Theodoric Meyer et al., Politico

Lobbyists have launched an all-out effort to save tax breaks and protect powerful industries as the Republicans' tax overhaul lurches toward President Donald Trump's desk. Builders and real estate interests are pushing to save the mortgage interest deduction.

Outdoors industry groups ratchet up Trump criticism
Devin Henry, The Hill

President Trump's decision this week to shrink two national monuments escalated a fight between the outdoors industry and his administration. Retailers such as Patagonia and REI slammed Trump's decision, equating it to theft, while lining up to challenge its legality.

Inside Oracle's cloak-and-dagger political war with Google
Tony Romm, Recode

The story that appeared in Quartz this November seemed shocking enough on its own: Google had quietly tracked the location of its Android

users, even those who had turned off such monitoring on their smartphones. But missing from the news site's report was another eyebrow-raising detail: Some of its evidence, while accurate, appears to have been furnished by one of Google's fiercest foes: Oracle.

A Message from the Electronic Payments Coalition:

A new EPC report analyzes how countries that adopt EMV experience lower counterfeit card fraud rates. It's time for a dynamic data security strategy to protect consumers like you. [Learn more](#) from EPC.

Opinions, Editorials and Perspectives

I Believe Franken's Accusers Because He Groped Me, Too **Tina Dupuy, The Atlantic**

In mid-November, a Los Angeles radio host named Leeann Tweeden stepped forward to claim that Senator Al Franken had shoved his tongue down her throat under the pretext of a rehearsal for a sketch he'd written. The coup de grace was a photograph of a sleeping Tweeden and the now-senator pretending to grab her boobs for the camera.

Trump, Israel and the Art of the Giveaway **Thomas L. Friedman, The New York Times**

I'm contemplating writing a book on the first year of President Trump's foreign policy, and I already know the name: "The Art of the Giveaway." In nearly 30 years of covering United States foreign policy, I've never seen a president give up so much to so many for so little, starting with China and Israel.

Why Donald Trump Would Regret Firing Robert Mueller **Karl Rove, The Wall Street Journal**

They came like rapid-fire rifle shots. On Friday, former national security adviser Mike Flynn copped a deal, pleading guilty to making false statements to the FBI and promising to cooperate with Special Counsel Robert Mueller in return for avoiding more-serious charges.

A Message from the Electronic Payments Coalition:

NEW REPORT: EMV adoption is critical to reduce counterfeit fraud in the U.S. Learn how EPC members are developing and implementing new technologies to make your life more secure.

Research Reports and Polling

The 2017 Annual Homeless Assessment Report (AHAR) to Congress

The Department of Housing and Urban Development

The Department of Housing and Urban Development (HUD) releases the Annual Homeless Assessment Report to Congress (AHAR) in two parts. Part 1 provides Point-in-Time (PIT) estimates, offering a snapshot of homelessness-both sheltered and unsheltered- on a single night.



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